

4-28-95

IN THE MATTER OF THE
THE APPLICATION OF
RICHARD J. DIPASQUALE, ET UX
FOR ZONING VARIANCE ON
PROPERTY LOCATED ON THE NORTH-
WEST SIDE RIDERWOOD LUTHERVILLE
DRIVE, 685' NE OF C/L MORRIS
AVENUE (1622 RIDERWOOD
LUTHERVILLE DRIVE) AND LOCATED
ON THE NORTHEAST SIDE RIDERWOOD
LUTHERVILLE DRIVE, 735' NE OF
C/L MORRIS AVENUE (1624
RIDERWOOD LUTHERVILLE DRIVE)
8TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 95-67-A and
* CASE NO. 95-68-A

* * * * *

RULING ON PETITIONER'S MOTION TO DISMISS

Having reviewed the Motion to Dismiss filed by Susan S. Flanigan, Esquire, on behalf of Petitioner in the subject matter, and the Answer to Motion to Dismiss filed by J. Carroll Holzer, Esquire, on behalf of Appellants /Protestants, and having considered the oral argument presented by Counsel before this Board on April 4, 1995, and for the reasons as stated during public deliberation of said Motion by this Board on April 19, 1995;

It is hereby this 28th day of April, 1995, by the County Board of Appeals of Baltimore County ORDERED that Petitioner's Motion to Dismiss be and the same is hereby GRANTED; and it is further

ORDERED that the appeals filed in Case No. 95-67-A and Case No. 95-68-A be and the same are DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz
Judson H. Lipowitz, Acting Chairman

S. Diane Levero
S. Diane Levero

Robert O. Schuetz
Robert O. Schuetz

MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 28, 1995

Susan S. Flanigan, Esquire
COLE & HAMMOND
25 S. Charles Street, Suite 1008
Baltimore, MD 21201

RE: Case No. 95-67-A and Case No. 95-68-A
Richard J. DiPasquale, et ux

Dear Ms. Flanigan:

Enclosed is a copy of the Board's Ruling on Petitioner's Motion to Dismiss issued this date by the County Board of Appeals in the subject matter.

Very truly yours,

Christelle E. Rodcliffe for
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Leonard Lockhart, President
Bayview Partnership, Inc.
Mr. & Mrs. Richard J. DiPasquale
J. Carroll Holzer, Esquire
Mr. Eric Rockel
Richard Matz /Colbert Engineering
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richard, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

RECORDED



IN RE.:	*	BEFORE THE
PETITIONS FOR VARIANCE	*	COUNTY BOARD OF APPEALS
NW/S Riderwood Lutherville Drive	*	OF BALTIMORE COUNTY
8th Election District	*	Case Nos. 95-67-A & 95-68-A
4th Councilmanic District	*	
Richard J. DiPasquale, et ux.,	*	
Petitioners	*	

* * * * *

ANSWER TO MOTION TO DISMISS

The Lutherville Community Association, Inc., and Eric Rockel, individually, Protestants, by their attorney, J. Carroll Holzer and Holzer and Lee, hereby answers the Petitioners' Motion to Dismiss and says:

1. The Appellants recognize that the subject matter of this case included two Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. Those Petitions were filed by the owners of the property, Richard J. and Dina DiPasquale and the contract purchaser, Bayview Partnership by Leonard Lockhart, through their attorney. Appellants also recognize that in both cases, 95-6-A and 95-68-A, the Petitioners were denied the relief requested by the Deputy Zoning Commissioner on October 20, 1994. (See attached Opinion, Exh. A)
2. The Appellants are concerned, however, that in the Deputy Zoning Commissioner's decision, on page four, one of the Protestants, Mr. Eric Rockel, raised a Motion to Dismiss these matters, arguing that the lots in question were not vested, and therefore had lapsed and were not developable and should

*Filed 3/24/95
KW*

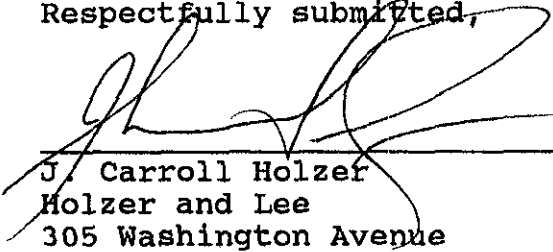
not form the basis for the granting of the variance. In the Deputy Zoning Commissioner's decision, he recognized that the Office of Planning and Zoning appeared to support Mr. Rockel in this argument in their comments dated August 31, 1994. Deputy Zoning Commissioner then made it a point at the bottom of page four to make a ruling that the subdivision had not "lapsed" and he made reference to an opinion letter written by Arnold Jablon dated September 29, 1994. The Deputy Zoning Commissioner in his Opinion then concluded to agree with Mr. Jablon that these lots were vested and the subdivision approval had not lapsed. It was from this comment and findings of the Deputy Zoning Commissioner (DZC) that the Appellants took their appeal to this Board.

3. The Motion to Dismiss filed by the Petitioner itself is sufficient justification to warrant the concern of the Appellants in that in paragraph Ten, the Petitioners attempt to equate the DZC findings and agreement with Jablon's determination regarding the validity of the plats as being a finding of the DZC. If this is correct, the Appellants have a right to an appeal in this case. If the DZC finding relating to the validity of the subdivision was just dicta and not binding, then Appellees' Motion may be appropriate.
4. The Appellants' position at the present time is that if the County Board of Appeals believes that the issue of the validity of the lots and subdivision which was the subject of the variance was not in question before the Deputy Zoning

Commissioner and that the Deputy's findings of fact and conclusion of law of October 20, 1994, as to that issue, is not binding upon the Appellants and so states in the Board's Order, then the matter may be dismissed to allow the Appellants to pursue their concern in another forum.

5. The Appellants would also suggest that the question concerning the validity of these lots is a relevant factor as it relates to the issue of whether a variance can be approved for two invalid lots. If that is the case, then the Appellants desire to have the Board hear this matter and determine that issue.

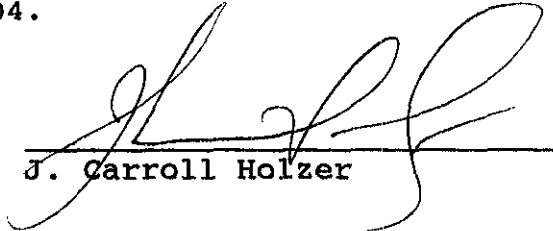
Respectfully submitted,



J. Carroll Holzer
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
(410) 825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 24th day of March 1995, a copy of the foregoing Answer to Motion to Dismiss was mailed, postage pre-paid, to Susan S. Flanigan, Esquire, and Peter Max Zimmerman, People's Counsel for Baltimore County, Basement, Old Courthouse, Towson, Maryland, 21204.



J. Carroll Holzer

IN RE: PETITIONS FOR VARIANCE	* BEFORE THE
NW/S Riderwood Lutherville Drive,	* DEPUTY ZONING COMMISSIONER
685' and 735' NE of the c/l of	* OF BALTIMORE COUNTY
Morris Avenue (1622 and 1624	* Case Nos. 95-67-A and
Riderwood Lutherville Drive)	95-68-A
8th Election District	
4th Councilmanic District	
Richard J. DiPasquale, et ux	*
Petitioners	*
	* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Deputy Zoning Commissioner as Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. The Petitions were filed by the owners of the properties, Richard J. and Dina DiPasquale, and the Contract Purchaser, Bayview Partnership, Inc., by Leonard Lockhart, President, through their attorney, Susan S. Flanigan, Esquire. In both Case No. 95-67-A and 95-68-A, the Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of the two properties with a single family dwelling. The subject properties and relief sought are more particularly described on the site plans submitted into evidence as Petitioner's Exhibits 1.

Appearing on behalf of the Petitions were Richard DiPasquale, property owner, Leonard H. Lockhart for the Bayview Partnership, Inc., Richard E. Matz, Professional Engineer, and Susan S. Flanigan, Esquire, attorney for the Petitioners. Appearing as Protestants were numerous residents of the surrounding community, including Eric Rockel, who participated in the proceedings.

Exh. A

MICROFILMED

Testimony and evidence offered revealed that the two properties in question are 50-foot wide lots containing roughly 6600 sq.ft. each and zoned D.R. 5.5. The property at 1622 Riderwood Lutherville Drive is also known as Lot 23 of Country Club Park (formerly known as Luther Villa) while the property at 1624 Riderwood Lutherville Drive, is known as Lot 22 of Talbott Manor. Both properties are located immediately adjacent to one another and are presently unimproved. Mr. DiPasquale testified that he has owned the subject properties for over 20 years and that he presently also owns Lots 21 and 24 which are located on the opposite sides of Lots 22 and 23. Testimony indicated that the Petitioners have owned other lots elsewhere throughout the two above-named subdivisions. Mr. DiPasquale has entered into a contract to sell Lots 22 and 23 to the Contract Purchaser, Bayview Partnership, Inc., for the purpose of developing these lots with single family dwellings. Mr. Lockhart testified that Bayview Partnership intends to purchase five other lots along Riderwood Lutherville Drive and that they propose to develop all seven lots with victorian style homes which would eventually be sold to the general public.

On each of these lots, the Petitioners' request is two-fold. First, the Petitioners seek approval of the two lots in question as undersized lots, pursuant to the requirements contained within Section 304 of the B.C.Z.R. Secondly, the Petitioners seek a variance from the 55-foot lot width requirement, pursuant to Section 1B02.3.C.1 of the B.C.Z.R.

As to the approval of an undersized lot, I find that the Petitioners have failed to satisfy the requirements of Section 304 which governs the use of undersized single family lots. That Section provides that a property owner shall have the right to construct a one-family detached or semi-detached dwelling on an undersized lot, provided the property owner

meets the requirements of a three-pronged test set forth therein. One, the property must be duly recorded, either by deed or a validly approved subdivision, prior to March 30, 1955, the date of the first adopted comprehensive zoning regulations of Baltimore County. Secondly, the Petitioners must demonstrate that all other requirements of the height and area regulations can be met. Finally, the Petitioners must demonstrate that they do not own sufficient adjoining land to conform to the width and area requirements of the B.C.Z.R.

Testimony revealed that the Petitioners own Lots 21 and 24 which are located on either side of Lots 22 and 23. Mr. DiPasquale testified that he could easily adjust the lot lines for Lots 21, 22, and 23 by borrowing 10 feet from Lot 21 and adding 5 feet to both Lots 22 and 23, thereby bringing them both into compliance with the 55-foot lot width requirement. Therefore, it appears that the Petitioners own sufficient adjoining land which could be added to the lots in question in order to meet the minimum lot width requirement of 55 feet. Given the fact that the Petitioners own sufficient adjoining lands, they have failed to satisfy all three requirements of Section 304 and therefore, their request for approval under that section shall be denied.

As to the requested variance from Section 1B02.3.C1 to permit a lot width of 50 feet in lieu of the required 55 feet for each lot, the Petitioners must satisfy the requirements of Section 307 of the B.C.Z.R. which governs the granting of variances. Section 307 of the B.C.Z.R. also sets forth a three-pronged test which the Petitioners must meet in order to qualify for variance relief. First, it must be shown that the Petitioners would suffer practical difficulty if the relief requested were denied. Secondly, relief can only be granted if that relief is within the spirit

and intent of the zoning regulations. Finally, the relief can be approved only if the granting of said relief will not be detrimental to the surrounding locale. I cannot find that the Petitioner would suffer practical difficulty given the facts of these cases. The Petitioners own sufficient adjoining land which would permit adjusting the lot lines in order to satisfy the requirements of the B.C.Z.R. Additionally, I do not believe that the granting of the variance would be within the spirit and intent of the zoning regulations inasmuch as the Petitioners own sufficient adjoining property. Therefore, I believe the Petitioners' request for variance relief from Section 1B02.3.C.1 should be denied. In the opinion of this Deputy Zoning Commissioner, the most appropriate manner to develop these properties would be to do a "lot line adjustment" to Lots 21, 22 and 23.

The Protestants who appeared at the hearing offered testimony opposing the granting of the variance relief. It is not necessary to recount the testimony presented by the Protestants inasmuch as the Petitioners have failed to satisfy the burden imposed upon them in order to obtain relief under Sections 304 and 307 of the B.C.Z.R. While the Protestants' testimony was very important, it was not needed for this Deputy Zoning Commissioner to deny the requested relief. However, it should be noted that one of the Protestants, Mr. Eric Rockel, raised a motion to dismiss these matters, arguing that the lots in question were not vested, and therefore, had lapsed and were not developable. In their comments dated August 31, 1994, the Office of Planning and Zoning appeared to support Mr. Rockel in this argument. I disagree with Mr. Rockel and the Office of Planning and Zoning as I do not believe that this subdivision has lapsed. Reference is made to an opinion letter written by Arnold Jablon director of Zoning Administration and Development Management, dated

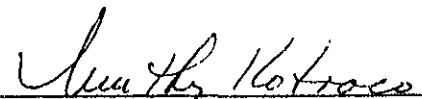
September 29, 1994. Mr. Jablon addressed the validity of the two lots in question. I agree with Mr. Jablon in his conclusion that these lots are vested and the subdivision approval has not lapsed.

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variances were denied. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variances requested are hereby denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of October, 1994 that the Petitions for Variance in Case Nos. 95-67-A and 95-68-A seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of 1622 and 1624 Riderwood Lutherville Drive with a single family dwelling in accordance with Petitioner's Exhibits 1, be and are hereby DENIED.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Date _____
By _____

IN RE:
PETITIONS FOR VARIANCE
NW/S Riderwood Lutherville Drive,
685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624
Riderwood Lutherville Drive
8th Election District
4th Councilmanic District

Richard J. DiPasquale, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. 95-67-A and
* 95-68-A
*

* * * * *

MOTION TO DISMISS

Bayview Partnership, Inc., Petitioner, by its attorneys, Susan S. Flanigan and the Law Offices of Cole & Hammond, moves to dismiss the appeal filed by Mr. Eric Rockel on his behalf and on behalf of the Lutherville Community Association and says:

1. That the subject before the Zoning Commission was two Petitions for Variance; the validity of the subdivision plats was not a matter to be determined at the hearing.

2. That the Petitions for Variance were denied because the Petitioners failed to satisfy the burden placed on them in order to obtain the variance under Sections 304 and 307 of the B.C.Z.R. Specifically, it was found that Petitioners own sufficient adjoining land to conform to the width and area requirements and that Petitioners would not suffer practical difficulty if the Petitions were denied.

3. That at the hearing Mr. Rockel moved to dismiss stating that the lots were not vested and therefore the plats had lapsed.

4. That in his Findings of Fact & Conclusions of Law, dated October 20, 1994, the Deputy Zoning Commissioner stated that he did not believe that the subdivision had lapsed.

5. That the Lutherville Community Association and Mr. Rockel are specifically appealing the decision of the Deputy Zoning Commissioner that the subdivision plats are valid and did not lapse as he contends. (See Exhibit 1)

6. That Mr. Arnold Jablon determined in his September 29, 1994, letter to Ms. Kathy Feroli of the Lutherville Community Association that the subject plats have met the test for common law vesting. (See Exhibit 2)

7. That Mr. Jablon also stated in his September 29, 1994, letter that plat validity is not the subject of a zoning hearing.

8. That because the Petitioners were not successful in obtaining the variances requested and because the Petitions for Variance were the only matters properly before the Zoning Commission, Mr. Rockel and the Lutherville Community Association have no basis for an appeal.

9. That the plat validity was not a matter to be determined at a zoning commission hearing and that the validity or non-validity of the plat did not effect the Deputy Zoning Commissioner's Conclusions of Law.

10. That Mr. Jablon's determination regarding the validity of the plats was made prior to the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law and is controlling.

WHEREFORE, the Petitioner respectfully requests that the Appeal be dismissed.

Susan S. Flanigan

SUSAN S. FLANIGAN
Law Offices of Cole & Hammond
25 South Charles Street
Suite 1008
Baltimore, Maryland 21201
(410) 685-0880

COLE & HAMMOND
Attorneys at Law
103 Court House Plaza
Suite 202
Elkton, MD 21921
(410) 392-3223

25 S Charles Street
Suite 1008
Baltimore, MD 21201
(410) 685-0880

November 5, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Cases Numbers
95-67-A & 95-68-A

Dear Mr. Jablon:

On my own behalf and on behalf of the Lutherville Community Association, we would like to appeal the decisions of the Deputy Zoning Commissioner in the cases referenced above concerning lots 22 and 23 in Section B of Luther Villa, also known as Talbott Manor. The applicable filing and posting fees are enclosed.

Specifically, we are only appealing the Deputy Zoning Commissioner's ruling with regard to the motion made by the Protestants on the lapse in validity of these lots and the fact that the lots are not vested. We believe the ruling did not address the specific context of the motion as it relates to Section 26-216 and 217 of the Baltimore County Code. As you are aware, Ms. Kathy Feroli of the Lutherville Community Association wrote you on this issue in a letter dated September 19, 1994. When you did not respond until after the hearing for these cases, the Hearing Officer commented that your determination would not bear on this issue, but rather he would issue a ruling on the question. Yet in that ruling he references your opinion on the matter and does not supply any substantive reasoning for his ruling other than the opinion issued in your letter. Your letter was not part of the testimony in the hearing, and it should not have been consulted in issuing the ruling. Finally, we believe the ruling failed to consider the requisite criteria established under the law.

Any future correspondence on this appeal should be sent to this writer at 1610 Riderwood Drive, Lutherville, Maryland 21093 and to the Lutherville Community Association, P.O. Box 6, Lutherville, Maryland 21094.

Sincerely,


Eric Rockel

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File

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1994

(410) 887-3353

Ms. Kathy Feroli
Lutherville Community Association
Post Office Box 6
Lutherville, MD 21093

RE: Plat validity

Dear Ms. Feroli:

This office is in receipt of your request dated September 19, 1994, concerning the validity of certain lots recorded among the Land Records of Baltimore County on the plats of "Luther Villa" and "Talbot Manor." I also acknowledge receipt of your check in the amount of \$40.00 for a written response on this matter.

I am aware that the lots which you reference in your letter are the subject of a variance hearing before the Zoning Commissioner scheduled for September 28, 1994. Numerous attempts to contact you prior to the hearing with this information have proven unsuccessful. Although plat validity is not the subject of the zoning hearing, it is obvious that the status of the record plat will, in part, determine if these lots are buildable.

Common law vesting in the state of Maryland requires that, in order to obtain a vested right to be constitutionally protected, one must obtain a permit and proceed under that permit to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. Through the construction of public infrastructure such as water, sewer and roads, and the issuance of permits throughout the community, the subject plats have, at a minimum, met the test for common law vesting.

As you have indicated, Section 26-216 (c) of the Baltimore County Code further defines the parameters for vesting a subdivision. Specifically, the code states: "A subdivision, section or parcel thereof is hereby defined as developed, and is therefor considered to be vested, if any of the following has occurred with respect to such subdivision, section or parcel: (1) Building permits have been issued or substantial construction on required public or private improvement has occurred on such subdivision, section or parcel pursuant to the requirements of the department of public works."

In consideration of common law vesting and vesting provisions contained in the county code, it is the opinion of this office that the subject lots and all other infill lots within the recorded plats of "Luther Villa" and "Talbot Manor" are considered to be vested and thereby protected for future building provided that they meet current zoning requirements and all other applicable rules and regulations of Baltimore County. This includes, but is not limited to, the construction of public

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Ms. Kathy Feroli
September 29, 1994
Page 2

water and sewer and the provision of adequate public access to individual lots. All of the necessary requirements will be reviewed by county staff at the time of building permit application.

I trust this information has been helpful. Should you have any additional questions regarding this matter, please do not hesitate to call Mr. Joseph V. Maranto, Project Manager, at (410) 887-3335.

Respectfully,


Arnold Jablon
Director

AJ:JVM:ggl



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 9, 1995

Mr. Eric Rockel
1610 Riderwood Drive
Lutherville, MD 21093

Re: Cases No. 95-67-A and No. 95-68-A
Richard J. DiPasquale, et ux

Dear Mr. Rockel:

Enclosed is a copy of the Motion to Dismiss filed in the above-referenced matter by Susan S. Flanigan, Esquire, on behalf of Bayview Partnership, Inc., Petitioner.

Your response to this Motion is due in this office no later than Friday, March 24, 1995. Thereafter, the Board will rule in this matter.

Very truly yours,

A handwritten signature in cursive script, reading "Kathleen C. Weidenhammer".

Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Susan B. Flanigan, Esquire
Mr. Leonard Lockhart, Jr.
Mr. & Mrs. Richard J. DiPasquale
Richard E. Matz, P.E.
Colbert Matz Rosenfeld & Woolfolk, Inc.
People's Counsel for Baltimore County



103 Court House Plaza
Suite 202
Elkton, Maryland 21921
(410) 392-3223
FAX: (410) 392-9359

LAW OFFICES OF
COLE & HAMMOND

Susan S. Flanigan

909-95
AJ-JW

25 S. Charles Street
Suite 1008
Baltimore, Maryland 21201
(410) 685-0880
FAX: (410) 685-0883

3/3/95
forward to
Mr. J. Apple

March 2, 1995

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petitions for Variance
NW/S Riderwood Lutherville Drive, 685' and 735' NE of the c/l
of Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux - Petitioners
Case nos. 95-67-A and 95-68-A

Dear Mr. Jablon:

Enclosed please find a Motion to Dismiss in the above-referenced cases. Please contact me if additional information is needed.

Thank you for your assistance.

Sincerely,

Susan S. Flanigan
Susan S. Flanigan

SSF/bmd
Enclosure

cc: Mr. Richard E. Matz, P.E.
Colbert Matz Rosenfelt & Woolfolk, Inc.

Mr. Leonard H. Lockhart, Jr.

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ZADM

95 MAR -6 PM 2:30

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1-11-95

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IN RE: PETITIONS FOR VARIANCE * BEFORE THE
NW/S Riderwood Lutherville Drive, *
685' and 735' NE of the c/l of * DEPUTY ZONING COMMISSIONER
Morris Avenue (1622 and 1624 *
Riderwood Lutherville Drive) * OF BALTIMORE COUNTY
8th Election District *
4th Councilmanic District * Case Nos. 95-67-A and
95-68-A
Richard J. DiPasquale, et ux *
Petitioners *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Deputy Zoning Commissioner as Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. The Petitions were filed by the owners of the properties, Richard J. and Dina DiPasquale, and the Contract Purchaser, Bayview Partnership, Inc., by Leonard Lockhart, President, through their attorney, Susan S. Flanigan, Esquire. In both Case No. 95-67-A and 95-68-A, the Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of the two properties with a single family dwelling. The subject properties and relief sought are more particularly described on the site plans submitted into evidence as Petitioner's Exhibits 1.

Appearing on behalf of the Petitions were Richard DiPasquale, property owner, Leonard H. Lockhart for the Bayview Partnership, Inc., Richard E. Matz, Professional Engineer, and Susan S. Flanigan, Esquire, attorney for the Petitioners. Appearing as Protestants were numerous residents of the surrounding community, including Eric Rockel, who participated in the proceedings.

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ORDER RECEIVED FOR FILING

DATE

By

Testimony and evidence offered revealed that the two properties in question are 50-foot wide lots containing roughly 6600 sq.ft. each and zoned D.R. 5.5. The property at 1622 Riderwood Lutherville Drive is also known as Lot 23 of Country Club Park (formerly known as Luther Villa) while the property at 1624 Riderwood Lutherville Drive, is known as Lot 22 of Talbott Manor. Both properties are located immediately adjacent to one another and are presently unimproved. Mr. DiPasquale testified that he has owned the subject properties for over 20 years and that he presently also owns Lots 21 and 24 which are located on the opposite sides of Lots 22 and 23. Testimony indicated that the Petitioners have owned other lots elsewhere throughout the two above-named subdivisions. Mr. DiPasquale has entered into a contract to sell Lots 22 and 23 to the Contract Purchaser, Bayview Partnership, Inc., for the purpose of developing these lots with single family dwellings. Mr. Lockhart testified that Bayview Partnership intends to purchase five other lots along Riderwood Lutherville Drive and that they propose to develop all seven lots with victorian style homes which would eventually be sold to the general public.

On each of these lots, the Petitioners' request is two-fold. First, the Petitioners seek approval of the two lots in question as undersized lots, pursuant to the requirements contained within Section 304 of the B.C.Z.R. Secondly, the Petitioners seek a variance from the 55-foot lot width requirement, pursuant to Section 1B02.3.C.1 of the B.C.Z.R.

As to the approval of an undersized lot, I find that the Petitioners have failed to satisfy the requirements of Section 304 which governs the use of undersized single family lots. That Section provides that a property owner shall have the right to construct a one-family detached or semi-detached dwelling on an undersized lot, provided the property owner

meets the requirements of a three-pronged test set forth therein. One, the property must be duly recorded, either by deed or a validly approved subdivision, prior to March 30, 1955, the date of the first adopted comprehensive zoning regulations of Baltimore County. Secondly, the Petitioners must demonstrate that all other requirements of the height and area regulations can be met. Finally, the Petitioners must demonstrate that they do not own sufficient adjoining land to conform to the width and area requirements of the B.C.Z.R.

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As to the requested variance from Section 1B02.3.C1 to permit a lot width of 50 feet in lieu of the required 55 feet for each lot, the Petitioners must satisfy the requirements of Section 307 of the B.C.Z.R. which governs the granting of variances. Section 307 of the B.C.Z.R. also sets forth a three-pronged test which the Petitioners must meet in order to qualify for variance relief. First, it must be shown that the Petitioners would suffer practical difficulty if the relief requested were denied. Secondly, relief can only be granted if that relief is within the spirit

CASE RECORDED FOR FILING

Date

By

and intent of the zoning regulations. Finally, the relief can be approved only if the granting of said relief will not be detrimental to the surrounding locale. I cannot find that the Petitioner would suffer practical difficulty given the facts of these cases. The Petitioners own sufficient adjoining land which would permit adjusting the lot lines in order to satisfy the requirements of the B.C.Z.R. Additionally, I do not believe that the granting of the variance would be within the spirit and intent of the zoning regulations inasmuch as the Petitioners own sufficient adjoining property. Therefore, I believe the Petitioners' request for variance relief from Section 1B02.3.C.1 should be denied. In the opinion of this Deputy Zoning Commissioner, the most appropriate manner to develop these properties would be to do a "lot line adjustment" to Lots 21, 22 and 23.

The Protestants who appeared at the hearing offered testimony opposing the granting of the variance relief. It is not necessary to recount the testimony presented by the Protestants inasmuch as the Petitioners have failed to satisfy the burden imposed upon them in order to obtain relief under Sections 304 and 307 of the B.C.Z.R. While the Protestants' testimony was very important, it was not needed for this Deputy Zoning Commissioner to deny the requested relief. However, it should be noted that one of the Protestants, Mr. Eric Rockel, raised a motion to dismiss these matters, arguing that the lots in question were not vested, and therefore, had lapsed and were not developable. In their comments dated August 31, 1994, the Office of Planning and Zoning appeared to support Mr. Rockel in this argument. I disagree with Mr. Rockel and the Office of Planning and Zoning as I do not believe that this subdivision has lapsed. Reference is made to an opinion letter written by Arnold Jablon director of Zoning Administration and Development Management, dated

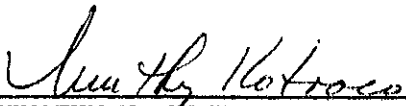
September 29, 1994. Mr. Jablon addressed the validity of the two lots in question. I agree with Mr. Jablon in his conclusion that these lots are vested and the subdivision approval has not lapsed.

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variances were denied. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variances requested are hereby denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of October, 1994 that the Petitions for Variance in Case Nos. 95-67-A and 95-68-A seeking relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of 1622 and 1624 Riderwood Lutherville Drive with a single family dwelling in accordance with Petitioner's Exhibits 1, be and are hereby DENIED.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

MICROFILMED

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

October 20, 1994

Susan S. Flanigan, Esquire
Cole & Hammond
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201

RE: PETITIONS FOR VARIANCE
NW/S Riderwood Lutherville Drive, 685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux - Petitioners
Case Nos. 95-67-A and 95-68-A

Dear Ms. Flanigan:

Enclosed please find a copy of the decision rendered in the above-captioned matters. The Petitions for Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script that reads "Timothy M. Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. & Mrs. Richard J. DiPasquale
1837 White Oak Avenue, Baltimore, Md. 21234

Mr. Leonard H. Lockhart, President, Bayview Partnership, Inc.
P.O. Box 187, Rising Sun, Md. 21911

Mr. Eric Rockel
1610 Riderwood Drive, Lutherville, Md. 21093

People's Counsel; File

RECORDED



8-31-64

RE: PETITION FOR VARIANCE	*	BEFORE THE
1622 Riderwood Lutherville Drive,		
NW/S Riderwood Lutherville Drive,	*	ZONING COMMISSIONER
685' NE of c/l Morris Avenue, 8th		
Election District, 4th Councilmanic	*	OF BALTIMORE COUNTY
Richard J. and Dina DiPasquale	*	CASE NO. 95-67-A
Petitioners		

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO

Deputy People's Counsel

Room 47, Courthouse

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Susan S. Flanigan, Esquire, Cole & Hammond, 25 S. Charles Street, Suite 1008, Baltimore, MD 21201, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

RECORDED



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at RIDERWOOD LUTHERVILLE DRIVE (1622)

which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3.C.1. TO ALLOW A MINIMUM LOT WIDTH OF 50 FT. IN LIEU OF THE REQUIRED 55 FT. ON LOT 23 AND TO APPROVE AN UNDERSIZED LOT PER SECTION 304 (BCZR).

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) THE EXISTING LOT IS IN A RECORDED SUBDIVISION OF 1924. ZONING REGULATIONS SUBSEQUENT TO THE PLAT MADE THIS LOT SLIGHTLY SMALLER THAN REQUIRED. THE GRANTING OF THIS VARIANCE WOULD NOT CHANGE THE NATURE OR TYPE OF HOUSE PLANNED FOR THIS LOT.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

(We do solemnly declare and affirm, under the penalties or penalty that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee

LEONARD LOCKHART
BAYVIEW PARTNERSHIP, INC.

(Type or Print Name)

Signature

400 E. PRATT STREET, SUITE 808

Address

BALTIMORE, MD 21202

City

State

Zipcode

Attorney for Petitioner

SUSAN S. FLANIGAN

(Type or Print Name)

COLE & HAMMOND

Signature

25 S. CHARLES ST., SUITE 1008
685-0880

Address

BALTIMORE, MD 21201

State

Zipcode

Legal Owners:

RICHARD J. DIPASQUALE

(Type or Print Name)

Signature

DINA DIPASQUALE

(Type or Print Name)

Signature

1837 WHITE OAK AVENUE

Address

Phone No

BALTIMORE MD 21234

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

RICHARD E. MATZ/COLBERT ENGINEERING, INC.

Name

3723 OLD COURT ROAD, SUITE 206

BALTIMORE, MD 21208 653-3838

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

MICROFILMED

ORDER RECEIVED FOR FILING

Date

By

DROP-OFF
No REVIEW
8-17-94
WCR



95-67-A

ZONING DESCRIPTION

Being Lot 23 as shown on Sec. B of the development known as Country Club Park (formerly called Lutherville), said Lot being 685 feet from the intersection of Morris Avenue and Riderwood-Lutherville Drive, recorded in Baltimore County Plat Book No. 7, Folio 128, containing 6,600 square feet. Also known as 1622 Riderwood-Lutherville Drive and located in the 8th Election District.



MICROFILMED

9/28

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Townen, Maryland

95-67-A

District: DB Date of Posting: 9/9/94
Posted for: Variance
Petitioner: Richard & Anna Di Pasquale & Bayview Partnership, Inc
Location of property: 1622 Ridewood Lutherville Dr, NMLS
Location of Sign: Postd at end of road leading to property
Remarks: Added address & lot # to sign
Posted by: [Signature] Date of return: 9/16/94
Number of Signs: 1

MICROFILMED

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 116, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #98-67-A
(Item 68)
1822 Ridewood Lutherville Drive
NW/S Ridewood Lutherville Drive, 885' NE of c/
Morris Avenue
8th Election District
4th Councilmanic
Legal Owner(s):
Richard J. DiPasquale
and Dina DiPasquale
Contract Purchaser(s):
Bayview Partnership,
Inc.
Hearing: Wednesday,
September 28, 1994 at
11:00 a.m. in Rm. 106,
County Office Building

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot #23 and to approve an undersized lot.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.
9/945 Sept. 1.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

Sept 2, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Sept 1, 1994.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

~~Subscribed~~



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-67-A

Account: R-001-6150

Number 68 (WCR)

NO REVIEW — DROP-OFF

Date 8/17/94

#010 - VARIANCE ----- \$50.00

#080 - SIGN POSTING ----- 35.00

TOTAL ----- \$85.00

Legal Owner: Richard J. DiPasquale & Dina DiPasquale

Contract Purchaser: Bayview Partnership, Inc.

1622 Riderwood Lutherville Drive

6,600 square feet

District: 8c4

Attorney: Susan S. Flanigan

Check from: Maryland
Investigative Service, Inc.

MICROFILMED

03A03#0124MICHR
BA 009#06A08-18-94

\$85.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

TO: PUTUXENT PUBLISHING COMPANY
September 1, 1994 Issue - Jeffersonian

Please forward billing to:

Susan S. Flanigan
Cole & Hammond
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201
685-0880

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-67-A (Item 68)
1622 Riderwood Lutherville Drive
NW/S Riderwood Lutherville Drive, 685' NE of c/l Morris Avenue
8th Election District - 4th Councilmanic
Legal Owner(s): Richard J. DiPasquale and Dina DiPasquale
Contract Purchaser(s): Bayview Partnership, Inc.
HEARING: WEDNESDAY, SEPTEMBER 28, 1994 at 11:00 a.m. in Room 106, County Office Building.

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot #23 and to approve an undersized lot.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 26, 1994

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-67-A (Item 68)
1622 Riderwood Lutherville Drive
NW/S Riderwood Lutherville Drive, 685' NE of c/l Morris Avenue
8th Election District - 4th Councilmanic
Legal Owner(s): Richard J. DiPasquale and Dina DiPasquale
Contract Purchaser(s): Bayview Partnership, Inc.
HEARING: WEDNESDAY, SEPTEMBER 28, 1994 at 11:00 a.m. in Room 106, County Office Building.

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot #23 and to approve an undersized lot.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Richard and Dina DiPasquale
Bayview Partnership
Susan S. Flanigan
Richard Matz/Colbert Engineering

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

RECORDED





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 27, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-67-A

RICHARD J. DIPASQUALE, ET UX
NW/s Riderwood Lutherville Drive, 685' NE of
c/l Morris Avenue (1622 Riderwood Lutherville
Drive)

AND

CASE NO. 95-68-A

NW/s Riderwood Lutherville Drive, 735' NE of
c/l Morris Avenue (1624 Riderwood Lutherville
Drive)
8th Election District
4th Councilmanic District

VAR -To permit lot width of 50'; undersized
lot.

10/20/94 -D.Z.C.'s Order in which Petitions
for Variance were DENIED.

ASSIGNED FOR: TUESDAY, APRIL 4, 1995 at 10:00 a.m.

cc: Mr. Eric Rockel

Appellant /Protestant

Susan S. Flanigan, Esquire Counsel for Petitioners
Mr. & Mrs. Richard J. DiPasquale Petitioners
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

RECEIVED

JAN 30 1995

2/2/95

Kathleen C. Weidenhammer
Administrative Assistant





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 27, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-67-A

RICHARD J. DIPASQUALE, ET UX
NW/s Riderwood Lutherville Drive, 685' NE of
c/l Morris Avenue (1622 Riderwood Lutherville
Drive)

AND

CASE NO. 95-68-A

NW/s Riderwood Lutherville Drive, 735' NE of
c/l Morris Avenue (1624 Riderwood Lutherville
Drive)
8th Election District
4th Councilmanic District

VAR -To permit lot width of 50'; undersized
lot.

10/20/94 -D.Z.C.'s Order in which Petitions
for Variance were DENIED.

ASSIGNED FOR:

TUESDAY, APRIL 4, 1995 at 10:00 a.m.

cc: Mr. Eric Rockel

Appellant /Protestant

J. Carroll Holzer, Esquire

Counsel for Appellant /Protestant

Susan S. Flanigan, Esquire

Counsel for Petitioners

Mr. & Mrs. Richard J. DiPasquale

Petitioners

Leonard Lockhart, President

Bayview Partnership, Inc.

Richard Matz

Colbert Engineering, Inc.

People's Counsel for Baltimore County

Pat Keller

Lawrence E. Schmidt

Timothy M. Kotroco

W. Carl Richards, Jr. /ZADM

Docket Clerk /ZADM

Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

Added to file
3/20/95





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 4, 1995

NOTICE OF DELIBERATION

Having received oral argument on April 4, 1995 on the Motion to Dismiss and response filed thereto in the subject matter, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

RICHARD J. DISPAQUALE, ET UX
CASE NO. 95-67-A /CASE NO. 95-68-A

DATE AND TIME : Wednesday, April 19, 1995 at 9:30 a.m.
LOCATION : Room 48, Basement, Old Courthouse

cc: J. Carroll Holzer, Esquire Counsel for Appellant /Protestant
Mr. Eric Rockel Appellant /Protestant
Susan S. Flanigan, Esquire Counsel for Petitioners
Mr. & Mrs. Richard J. DiPasquale Petitioners
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

LRM



Printed with Soybean Ink
on Recycled Paper

MICROFILMED

CASE NOS. 95-67-A & 95-68-A

RICHARD J. DIPASQUALE, ET UX

NW/s Riderwood Lutherville Drive, 685' and 735'
NE of the c/l of Morris Avenue
(1622 and 1624 Riderwood Lutherville Drive)

8th District

Appealed: 11/7/94

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Susan S. Flanigan, Esq.
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201

RE: Item No. 68, Case No. 95-67-A
Petitioner: DiPasquale/Bayview Partnership

Dear Ms. Flanigan:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 17, 1994 and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

- 1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.
- 2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.
- 3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr.", is written over the "Very truly yours," text.

W. Carl Richards, Jr.
Zoning Coordinator

WCR:jaw

MICROFILMED



BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: September 6, 1994
Zoning Administration and Development Management

FROM: *[Signature]* Robert W. Bowling, Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for September 6, 1994
Item No. 68

The Developers Engineering Section has reviewed the subject zoning item. If the variance is granted, water and sewer main extensions of approximately 350 feet each would be required to serve this site. Also, the extension of the paved roadway is required for access.

RWB:sw

RECEIVED



Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

8-26-94

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: *¢ 68 (WCR)*

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small

for David Ramsey, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

95-67

TO: ZADM

DATE: 8/31/94

FROM: DEPRM
Development Coordination

SUBJECT: Zoning Advisory Committee
Agenda: 8/29/94

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 63
64
65
66
68
69
70
71
72

LS:sp

LETTY2/DEPRM/TXTSBP

MICROFILMED

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/25/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 60, 62, 63, 64, 65,
67, 68, 69, 70, 71 AND 72.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED



INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

TO: Director, Office of Planning and Zoning
Attn: Ervin McDaniel
County Courts Bldg, Rm 406
401 Bosley Av
Towson, MD 21204

FROM: Arnold Jablon, Director, Zoning Administration and Development Management

B _____
Permit Number

RE: **Undersized Lots**

Pursuant to Section 304.2(Baltimore County Zoning Regulations) effective June 25, 1992; this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:

☐ **Leonard Lockhart** 400 E. Pratt St., Ste. 808
Bayview Partnership, Inc. Baltimore, Md. 21202 410-727-8812
Print Name of Applicant Address Telephone Number

☐ Lot Address 1622 Riderwood - Lutherville Dr. Election District B Council District 4 Square Feet 6,600
Lot Location: N E S W / side / corner of Riderwood - Lutherville Drive feet from N E S W corner of Morris Ave / Riderwood - Lutherville Drive
(Street) (Street)

Land Owner Richard & Dina DiPasquale Tax Account Number 0808001892

Address 1837 White Oak Ave. Telephone Number 410-668-1774
Baltimore, Md. 21234

☐ CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning)

	YES	NO
1. This Recommendation Form (3 copies)	✓	_____
2. Permit Application	_____	_____
3. Site Plan	_____	_____
Property (3 copies)	✓	_____
Topo Map (available in Rm 206 C.O.B.) (2 copies) (please label site clearly)	✓	_____
4. Building Elevation Drawings	✓	_____
5. Photographs (please label all photos clearly)	NA	_____
Adjoining Buildings	✓	_____
Surrounding Neighborhood	✓	_____

Residential Processing Fee Paid
Codes 030 & 080 (\$85)

Accepted by _____
ZOM

Date _____

Item 68

TO BE FILLED IN BY THE OFFICE OF PLANNING AND ZONING ONLY!

RECOMMENDATIONS/COMMENTS:

☐ Approval ☒ Disapproval ☐ Approval conditioned on required modifications of the permit to conform with the following recommendations:

see attached comments

Signed by: Francis Morsey
for the Director, Office of Planning & Zoning

Date: 9/22/94

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: August 31, 1994

SUBJECT: 1622 and 1624 Riderwood Lutherville Drive

INFORMATION:

Item Number: 68 and 69

Petitioner: DiPasquale Property

Property Size: _____

Zoning: D.R. 5.5

Requested Action: _____

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments:

It should be noted that none of the accompanying information needed for review of undersized lots was submitted, i.e., building elevation drawings, topo map, photographs of adjacent buildings and the neighborhood. The petition was noted as being accepted with "no review" and it is incomplete.

The applicability of Section 304 is in question since the petitioner owns several contiguous lots, Lots 21, 22, 23 and 24 in the old subdivision of Luther Villa. Section 304 may be applied only "if the owner of the lot does not own sufficient adjoining land to conform to the width and area regulations."

Furthermore, the lots in question, Lots 21-24 of Luther Villa, Plat Book 8, Folio 13, appear to be in a subdivision plat which has lapsed pursuant to Section 26-216 of the Baltimore County Development Regulations. Riderwood Lutherville Drive is an unimproved road along the lots' frontage, and it appears that public utilities may be lacking, (i.e., the substantial construction of public improvements does not exist).

This office recommends the petition be withdrawn or dismissed. It is suggested that the petitioner combine lots seeking either a lot line adjustment and/or minor subdivision approval to establish three building lots that meet the lot width requirement of 55'.

RECEIVED

If the petitioner chooses not to pursue this remedy, this office will oppose any request for Variance on these undersized lots, as they would be incompatible with the neighborhood.

Prepared by: Jeffrey W. Lay
Division Chief: Darryl L. Kerns

PK/JL:lw

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



14.D
9/24

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 26, 1994

Ms. Susan S. Flanigan, Esq.
25. S. Charles Street, Suite 1008
Baltimore, Maryland 21201

Item 68

RE: Case No. 95-67-ANo.
DiPasquale/Bayview Partnership

Petitioner

Dear Ms. Flanigan:

Enclosed are copies of comments received from OPZ September 01,
1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at
887-3391.

Sincerely,

A handwritten signature in cursive script that reads "Joyce Watson".

Joyce Watson

Enclosure

MICROFILMED



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

November 17, 1994

Susan S. Flanigan, Esquire
Cole & Hammond
25 S. Charles Street, Suite 1008
Baltimore, MD 21201

RE: Petitions for Variance
NW/SRiderwood Lutherville
Drive,
685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624
Riderwood Lutherville Drive)
8th Election District
4th Councilmanic District
Richard J. DiPasquale et ux
Petitioners
95-67-A & 95-68-A

94 NOV 29 4:11:16

Dear Ms. Flanigan:

Please be advised that an appeal of the above-referenced case was filed in this office on November 7, 1994 by Eric Rockel. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Eileen O. Hennegan at 887-3353.

Sincerely,


ARNOLD JABLON
Director

AJ:eoh

c: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Avenue
Baltimore, MD 21234

UNRECORDED



Susan S. Flanigan, Esquire
Page Two
November 18, 1994

Mr. Leonard H. Lockhart, President, Bayview Partnership, Inc. P.O.
Box 187, Rising Sun, MD 21911

Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, MD 21093

Lutherville Community Association, P.O. Box 6, Lutherville, MD
21094

People's Counsel

RECEIVED

APPEAL

Petitions for Variance
NW/S Riderwood Lutherville Drive, 685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux-PETITIONERS
Case No. 95-67-A and 95-68-A

Petitions for Variance

Descriptions of Property

Certificates of Posting

Certificates of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Petitioners and Protestants Sign-In Sheets

Petitioner's Exhibits: 1 - Plat to accompany Petition for Variance
2A-2L - 12 Photographs with Photo Key

Protestant's Exhibits: 1 - Letter from Lutherville Community
Association dated 9/19/94
2 - Copy of Deed
3 - Copy of Deed
4 - Stream Plan and Profile
5 - Profile-Balto. Co. Dept. of Public
Works-Bureau of Engineering
6 - List of neighbors who object to petitions
7 - Copy of memo from Glen Spamer to John
Alexander, dated August 29, 1994

Deputy Zoning Commissioner's Order dated October 20, 1994 (DENIED)

Notice of Appeal received on November 7, 1994 from Eric Rockel

Micellaneous Correspondence:

- 1 - Letter to Kathy Feroli from Arnold Jablon,
dated September 29, 1994 concerning plat
validity
- 2 - Plat to accompany Petition for Variance
(95-68-A)
- 3 - Copy of 200 scale map

c: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Ave., 21234
Susan S. Flanigan, Esq., Cole and Hammond, 25 S. Charles St., Suite
1008, 21201
Mr. Leonard Lockhart, Pres., Bayview Partnership, Inc. P.O. Box
187, Rising Sun, MD 21911
Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, 21093
Mr. Richard Matz, Colbert Engineering, Inc., 3723 Old Court Road,
Suite 206, 21208
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM

MICROFILMED

APPEAL

Petitions for Variance
NW/S Riderwood Lutherville Drive
(1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux-PETITIONER
Case No. 95-67-A and 95-68-A

Letter to Arnold Jablon from Susan S. Flanigan dated March 2, 1995

Motion to Dismiss

Letter to Arnold Jablon from Eric Rockel dated November 5, 1994

Letter to Kathy Feroli from Arnold Jablon dated September 29, 1994

cc: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Avenue, 21234
Susan S. Flanigan, Esquire, Cole and Hammond, 25 S. Charles
Street, Suite 1008, Baltimore, MD 21201
Mr. Leonard Lockhart, President, Bayview Partnership, Inc., P.O.
Box 187, Rising Sun, MD 21911
Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, MD 21093
Mr. Richard Matz, Colbert Engineering, Inc., 3723 Old Court Road,
Suite 206, Baltimore, MD 21208
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of ZADM

95 MAR -6 PM 2:29

MICROFILMED

1/27/95 -Notice of Assignment for hearing scheduled for Tuesday,
April 4, 1995 at 10:00 a.m. sent to following:

Mr. Eric Rockel
Susan S. Flanigan, Esquire
Mr. & Mrs. Richard J. DiPasquale
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

(Scheduled w/95-68-A)

2/7/95 -T/C from Susan Flanigan, Esquire RE: filing a Motion to Dismiss prior
to hearing. CER informed the Board would review the Motion if received
prior to hearing.

3/06/95 -Motion to Dismiss filed by S. Flanigan, Esquire (filed 3/03/95 in ZADM;
received by CBA 3/06/95).

3/09/95 -Letter to Eric Rockel, Appellant, forwarding copy of above Motion to
Dismiss; response due within 15 days /no later than Friday, March 24, 1995.
Thereafter, Board will render decision.

3/20/95 -Entry of Appearance filed by J. Carroll Holzer, Esquire on behalf of
Eric Rockel, Appellant /Protestant.

3/24/95 -Answer to Motion to Dismiss filed by J. Carroll Holzer on behalf of
Lutherville Community Assn. and Eric Rockel, Protestants /Appellants.

4/04/95 -Motions hearing held before Board (counsel notified by telephone 4/03/95
that Board would entertain argument on motion to dismiss; no evidence or
testimony on merits to be received on 4/04/95).

-Notice of Deliberation sent to parties; scheduled for Wednesday, April 19,
1995 at 9:30 a.m. (L.R.M.)

100-100000

File

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1994

(410) 887-3353

Ms. Kathy Feroli
Lutherville Community Association
Post Office Box 6
Lutherville, MD 21093

RE: Plat validity

Dear Ms. Feroli:

This office is in receipt of your request dated September 19, 1994, concerning the validity of certain lots recorded among the Land Records of Baltimore County on the plats of "Luther Villa" and "Talbott Manor." I also acknowledge receipt of your check in the amount of \$40.00 for a written response on this matter.

I am aware that the lots which you reference in your letter are the subject of a variance hearing before the Zoning Commissioner scheduled for September 28, 1994. Numerous attempts to contact you prior to the hearing with this information have proven unsuccessful. Although plat validity is not the subject of the zoning hearing, it is obvious that the status of the record plat will, in part, determine if these lots are buildable.

Common law vesting in the state of Maryland requires that, in order to obtain a vested right to be constitutionally protected, one must obtain a permit and proceed under that permit to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. Through the construction of public infrastructure such as water, sewer and roads, and the issuance of permits throughout the community, the subject plats have, at a minimum, met the test for common law vesting.

As you have indicated, Section 26-216 (c) of the Baltimore County Code further defines the parameters for vesting a subdivision. Specifically, the code states: "A subdivision, section or parcel thereof is hereby defined as developed, and is therefor considered to be vested, if any of the following has occurred with respect to such subdivision, section or parcel: (1) Building permits have been issued or substantial construction on required public or private improvement has occurred on such subdivision, section or parcel pursuant to the requirements of the department of public works."

In consideration of common law vesting and vesting provisions contained in the county code, it is the opinion of this office that the subject lots and all other infill lots within the recorded plats of "Luther Villa" and "Talbott Manor" are considered to be vested and thereby protected for future building provided that they meet current zoning requirements and all other applicable rules and regulations of Baltimore County. This includes, but is not limited to, the construction of public

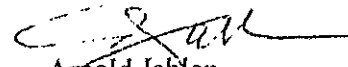
2000-09-29 14:15:00

Ms. Kathy Feroli
September 29, 1994
Page 2

water and sewer and the provision of adequate public access to individual lots. All of the necessary requirements will be reviewed by county staff at the time of building permit application.

I trust this information has been helpful. Should you have any additional questions regarding this matter, please do not hesitate to call Mr. Joseph V. Maranto, Project Manager, at (410) 887-3335.

Respectfully,


Arnold Jablon
Director

AJ:JVM:ggl

MICROFILMED

November 5, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Cases Numbers
95-67-A & 95-68-A

Dear Mr. Jablon:

On my own behalf and on behalf of the Lutherville Community Association, we would like to appeal the decisions of the Deputy Zoning Commissioner in the cases referenced above concerning lots 22 and 23 in Section B of Luther Villa, also known as Talbott Manor. The applicable filing and posting fees are enclosed.

Specifically, we are only appealing the Deputy Zoning Commissioner's ruling with regard to the motion made by the Protestants on the lapse in validity of these lots and the fact that the lots are not vested. We believe the ruling did not address the specific context of the motion as it relates to Section 26-216 and 217 of the Baltimore County Code. As you are aware, Ms. Kathy Feroli of the Lutherville Community Association wrote you on this issue in a letter dated September 19, 1994. When you did not respond until after the hearing for these cases, the Hearing Officer commented that your determination would not bear on this issue, but rather he would issue a ruling on the question. Yet in that ruling he references your opinion on the matter and does not supply any substantive reasoning for his ruling other than the opinion issued in your letter. Your letter was not part of the testimony in the hearing, and it should not have been consulted in issuing the ruling. Finally, we believe the ruling failed to consider the requisite criteria established under the law.

Any future correspondence on this appeal should be sent to this writer at 1610 Riderwood Drive, Lutherville, Maryland 21093 and to the Lutherville Community Association, P.O. Box 6, Lutherville, Maryland 21094.

Sincerely,


Eric Rockel

MICROFILMED

RECEIVED
NOV 7 1994
ZADM

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Richard J. DiPasquale, et ux -Petitioners
Case No. 95-67-A and Case No. 95-68-A
Deliberation /Motion to Dismiss

DATE : April 19, 1995 @ 9:30 a.m.

BOARD /PANEL : Judson L. Lipowitz (JHL)
Robert O. Schuetz (ROS)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Opening Comments /JDL: We are here on Case No. 95-67-A and Case No. 95-68-A, 1622 and 1624 Riderwood Lutherville Drive, wherein Property Owners lost below. The community association appealed to the Board of Appeals the Deputy Zoning Commissioner's Order of October 20, 1994. The Property Owners, through counsel, have filed a Motion to Dismiss appeal. Board heard argument on April 4, 1995 on the Motion to Dismiss, and is prepared now to deliberate on the Motion to Dismiss appeal. I will go first.

JHL: I reviewed the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law, and particularly I reviewed his Order. The essence of the Order is that the prerequisites required to grant the two variances had not been met, and therefore should be and were denied. The Opinion covered many different topics. It did cover a topic regarding the vesting of the lots and validity of the subdivision. Those issues had been raised at the hearing by the community association through a Motion to Dismiss that was argued before the Deputy Zoning Commissioner. It is my opinion that the only issue before this Board is the Order denying the variances, and since the Property Owners did not file an appeal, and in my opinion they were the only potential party aggrieved by the Deputy Zoning Commissioner's decision, I believe that the Motion to Dismiss should be granted, period. Mr. Holzer suggests that we deny the Motion to Dismiss but that we allow the parties to brief the issue regarding vesting and validity of subdivision, and that we then somehow issue an order or ruling deciding that issue. Mr. Holzer was concerned about judicial economy; concerned that the language of Order, of the Deputy Zoning Commissioner's Opinion, would somehow hurt the community at a later date. This Board has always tried to be practical and has always tried to act with foresight and mindful of judicial economy. However, from a legal standpoint, the Motion to Dismiss should be granted without any qualifications.


Deliberation /Richard J. DiPasquale, et ux
Case No. 95-67-A and Case No. 95-68-A /Motion to Dismiss

SDL: The issue of the validity of the lots and subdivision which were subject of the variance was not question before the Deputy Zoning Commissioner; his statement on page 4 that he does not believe the subdivision has lapsed is dicta; a statement of opinion or legal point not essential to the case; as dicta, it is not binding or appealable; would grant Motion to Dismiss.

ROS: There is really nothing left to be added; the issue of this case is the Order of the Deputy Zoning Commissioner; the Property Owner lost below; he is the aggrieved party. I don't see where the rights of the association are not preserved. Therefore, I also would grant the Motion to Dismiss.

Closing Comment /JHL: The Board will issue a written ruling granting the Motion to Dismiss. Any appeal from that Ruling will be filed within thirty days from that Order and not from today's date.

Respectfully submitted,


Kathleen C. Weidenhammer
Administrative Assistant



LAW OFFICES

J. CARROLL HOLZER, PA
THOMAS J. LEE
J. HOWARD HOLZER
1907-1989

TOWSON OFFICE
305 WASHINGTON AVENUE
SUITE 502
TOWSON, MD 21204
(410) 825-6961
FAX: (410) 825-4923

CARROLL COUNTY OFFICE
1315 LIBERTY ROAD
ELDERSBURG, MD 21784
(410) 795-8556
FAX: (410) 795-5535

March 16, 1995

Chairman William Hackett
County Board of Appeals
Old Courthouse
Towson, Maryland 21204

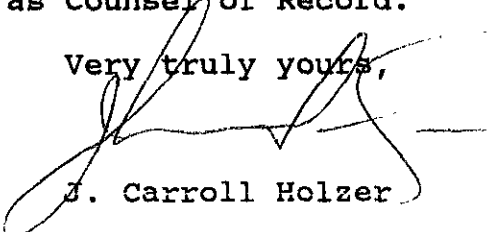
Re.: DiPasquale
Case Nos. 9567A and 9568A

Dear Mr. Hackett:

Please be advised that I have just been retained by the Greater Timonium Community Council, Inc., to represent Mr. Eric Rockel in the appeal of the Lutherville Community Association in the above captioned case. He has also just provided me with a copy of the Motion to Dismiss which was previously filed by Bayview Partnership, Inc., to be answered by next Friday, March 24, 1995.

I have further been advised that the hearing has been scheduled for April 4, 1995, at 10:00 a.m. I am clear on that date until 1:00 p.m., when I have a District Court case in Towson that has already been postponed three times and must be tried. Thank you very much for adding to the file as Counsel of Record.

Very truly yours,


J. Carroll Holzer

cc: Susan S. Flannagan

95MAR 20 07:13

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Eric Rockel

1610 Ridewood Dr., Lutherville
Md. 21093

James C. Kuhn

1109 Treble Ct

Lutherville, Md 21093

David L. Harvey

1623 Treble Ct.

Lutherville, Md 21093

Robert Carson

1619 Treble Ct

Lutherville, Md 21093

Eric H. Gotsdiner

1618 Treble Ct.

Lutherville Md.

Antonia W. Winchurk

1625 Treble Court

Lutherville, Md MD

Cooper W. DeLoach

1701 Greenspring Dr.

21093

Richard A. Winchurk

1625 TREBLE CT

21093

P. Barrett Rudd

1601 Ridewood-Lutherville Dr.

Lutherville Md 21093

Robert Carson

1619 Treble Ct

Lutherville, Md 21093

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

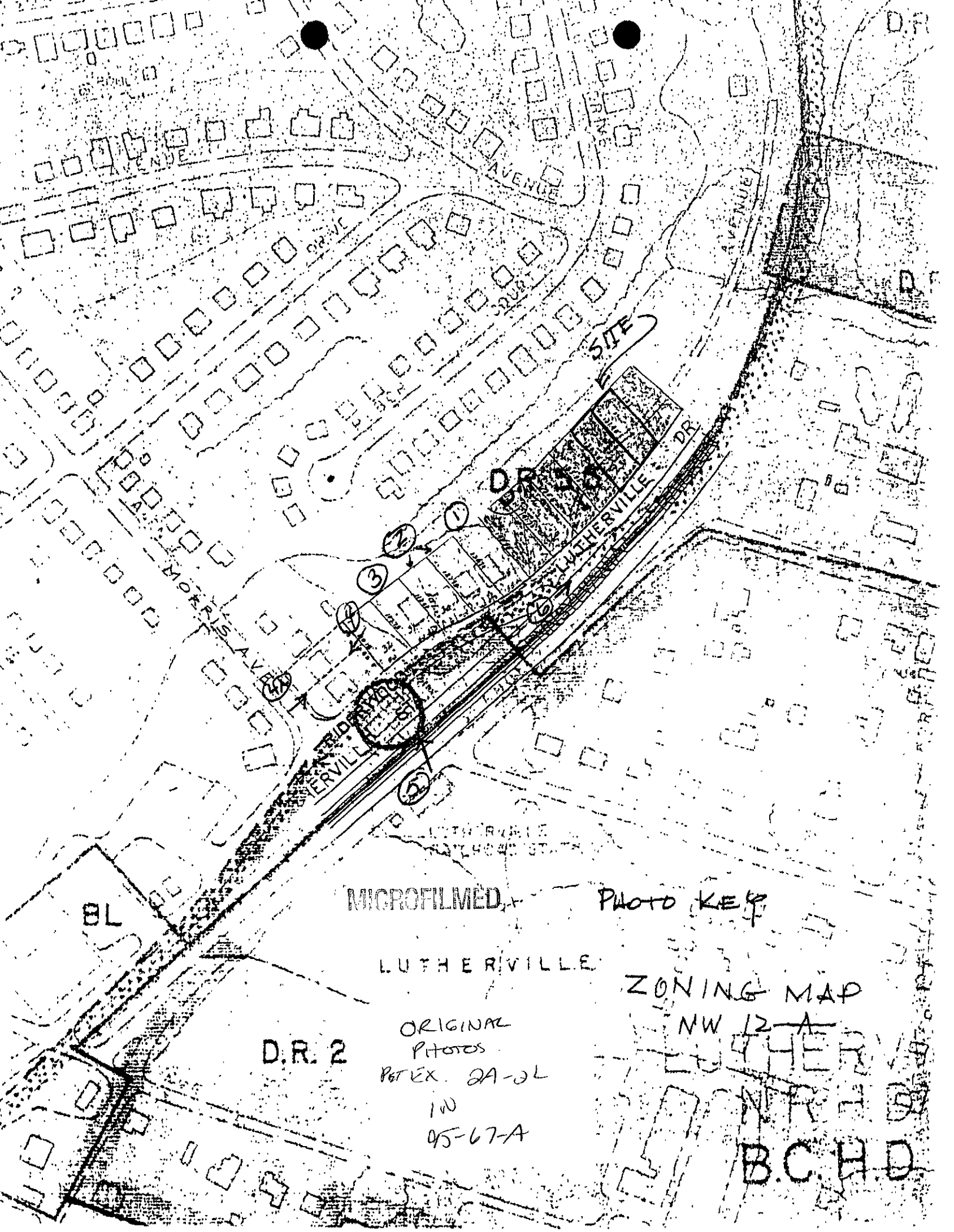
RICHARD E. MATZ
Susan S. Flanigan
RICHARD J. DiPasquale
LEONARD H. LOCANT

~~CARRIDGE~~ 19 MARLIE Woods CT.
8336 Carrbridge Circle 21204
1837 White Oak Av 21234
P.O. Box 189, Rising Sun, Md.
21911



Printed with Soybean Ink
on Recycled Paper

MICROFILMED



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PHOTO KEY

LUTHERVILLE

ZONING MAP

NW 12-A

D.R. 2

ORIGINAL
PHOTOS
POTEX. 2A-2L
100
95-67-A

LUTHERVILLE
B.C.H.D.



1622-1624
RIDERWOOD -
LUTHERVILLE DR

①



②



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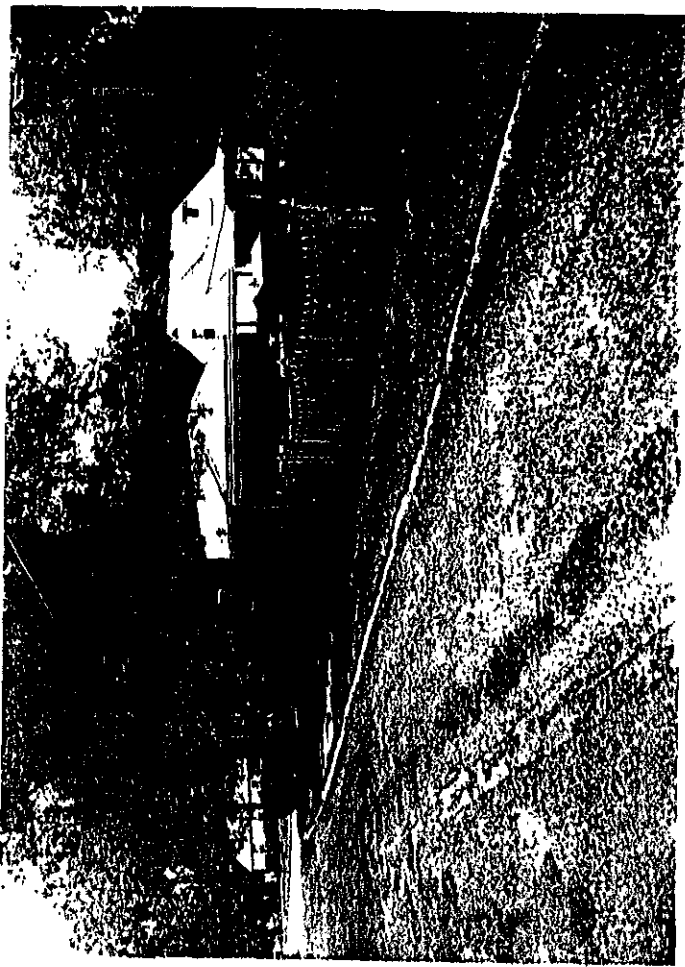


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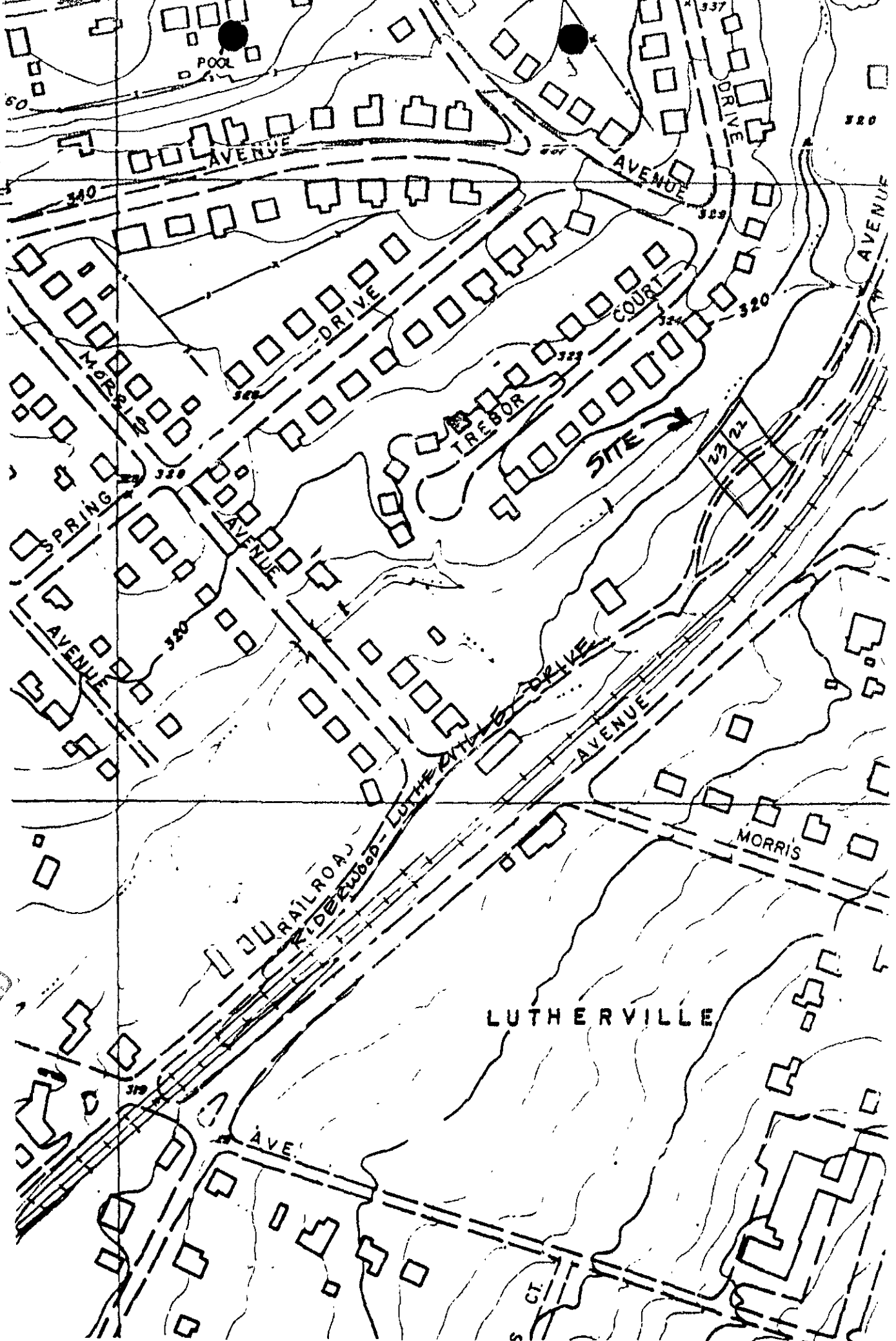


(5)

SPIDERWOOD-
LUTHERVILLE
DRIVE

NOTED

1" = 200'
NW 12-A



Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

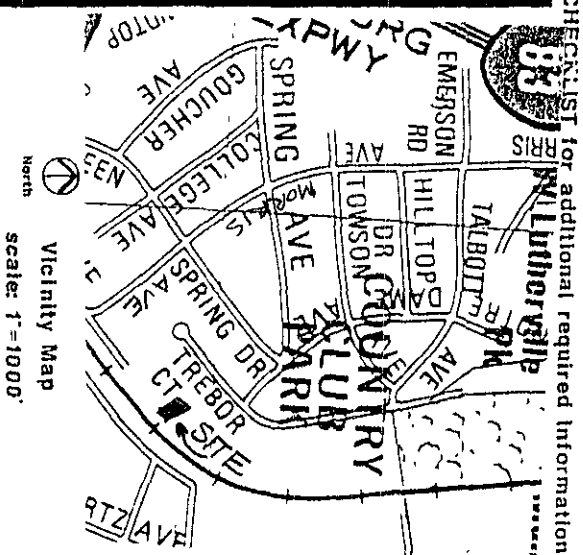
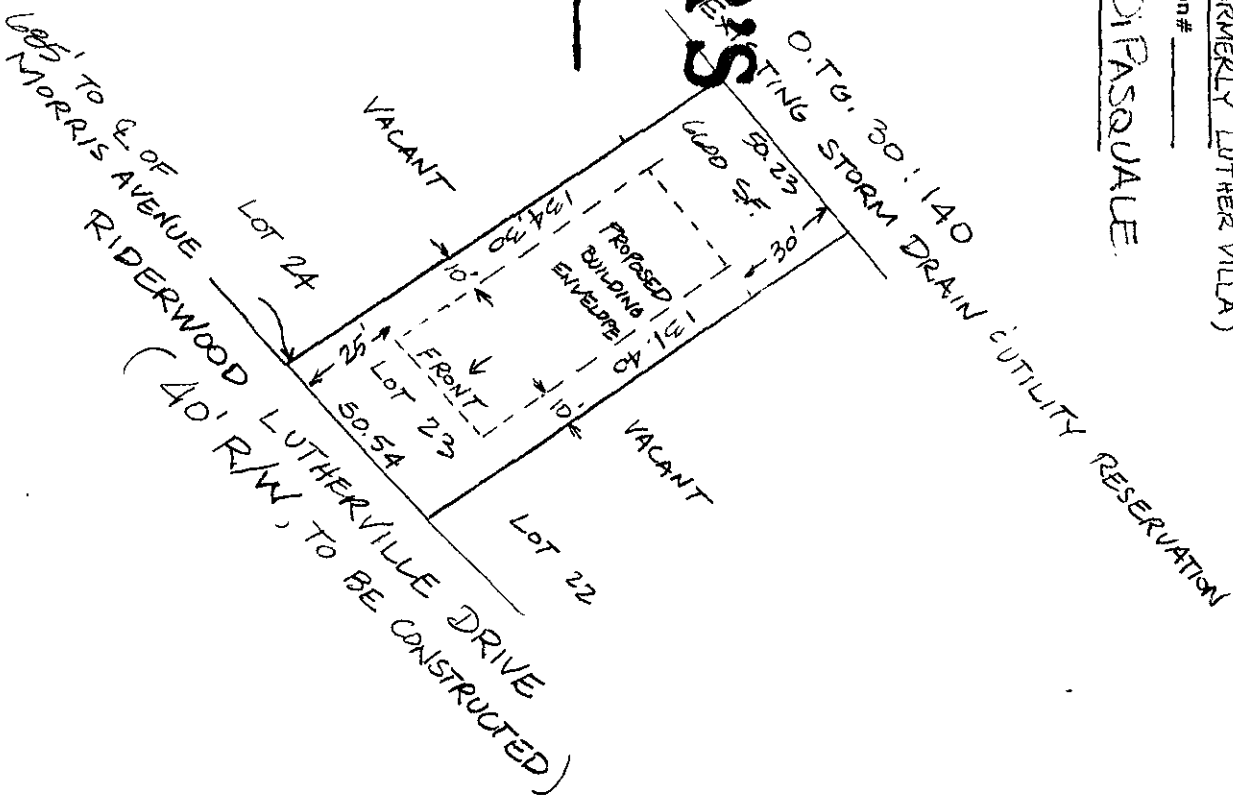
PROPERTY ADDRESS: 1622 RIDERWOOD LUTHERVILLE DRIVE

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: COUNTRY CLUB PARK (FORMERLY LUTHER VILLA)
 plat book# 8, folio# 13, lot# 23, section#

OWNER: RICHARD J & DINA DI PASQUALE

PETITIONER'S EXHIBIT



LOCATION INFORMATION

Councilmanic District: 4

Election District: 8

1"=200' scale map#: NW 12A

Zoning: D.R. 5.5

Lot size: 0.1515 acreage 6600 square feet

MICROFILMED

Public Private

SEWER: ☒ Public ☐ Private

WATER: ☒ Public ☐ Private

Chesapeake Bay Critical Area: ☐ Yes ☒ No

Prior Zoning Hearings: NONE

Zoning Office USE ONLY!

reviewed by: ITEM #: CASE#:



North

date: 8/2/94

prepared by: R. KOSKOFF

Scale of Drawing: 1" = 50



September 19, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Validity of Lots
in Luther Villa/
also known as
Talbott Manor

PROTESTANT'S EXHIBIT NO. 1

Dear Mr. Jablon:

Recently we have been researching certain zoning requirements as a result of two cases that are due to come before the Zoning Commissioner, Cases 95-67-A (Item 68) and 95-68-A (Item 69). Both of these cases concern lots as shown on the subdivision plat of "Luther Villa", plat book 7/128, which was rerecorded as " Talbott Manor ", 13/70&71. The lots in this particular variance case are numbers 22 and 23 in Block B, but there are other lots in this same subdivision that also have the same characteristic.

The characteristic I am referring to is that these lots are on an old subdivision plat that was not subject to Planning Board approval or any sort of development approval process. These lots, 22 and 23, as well as two other lots in the same ownership, lots 21 and 24, are in a part of the subdivision that has not been developed with substantial construction of public or private improvements. By that I mean that building permits have not been issued for the lots and the lots do not front on a surfaced public road, nor is there any road maintenance by the County in front of these lots, and there is not water, sewer or storm drains serving these lots. As such, it would appear that there is a lapse of validity as defined under Section 26-216 Of the Baltimore County Code. Equally the provisions of Section 26-217 do not apply in this instance. So I am requesting your formal determination in this regard. I might also add that the variance hearing on this matter is scheduled for September 28, 1994, so time is of the essence. Your ruling will obviously effect the hearing.

I would also point out that the Office of Planning and Zoning have reached a similar conclusion to ours in their review for the variance case.

Finally, I have a similar question concerning three other lots, numbers 27, 26 and 25 also in Block B of Luther Villa. We understand that the prospective purchaser of lots 24 to 21 also has lots 25 to 27 under contract. Lots 25 to 27 also lack road, sewer, water and storm drain improvements. Although Section 26-216 does refer to three or fewer lots under the same

Lutherville
Community Association

Post Office Box 6
Lutherville, Maryland 21093

MICROFILMED



September 19, 1994

page 2, Arnold Jablon

ownership as being exempt from the regulations, there are two facts that may be of merit and consideration in this instance. First, prior to 1975 these three lots were also owned by the same current owner of lots 21 to 24, Richard Di Pasquale. Since it would appear that the lapse of validity provisions existed in the County Code prior to the 1975 transfer of these three lots, for example see Articles IV and V of Title 22, Code, 1968, we are questioning whether these three lots are in fact invalid as well.

Again, we would like your ruling on these matters, and these are not the only lots in this subdivision that are in this situation. I want to thank you in advance for your prompt attention to these questions due to our concern about the pending variance hearing. If any questions arise that are not covered in this letter, please contact myself at 252-6648 or our association's president, Robert Vaughn, 252-3131, and we will try to clarify the issue for you. I would also appreciate being copied on any correspondence in this matter. Thanks again.

Sincerely,

Kathy Feroli, Vice President
Lutherville Community Association

cc: Nonorable Doug Riley

Lutherville
Community Association

Post Office Box 6
Lutherville, Maryland 21093

FEE-SIMPLE DEED-CODE-CHY or County

This Deed, Made this

day of June

in the year one thousand nine hundred and seventy four, by and between H. Lee Brill

of
Baltimore County
Richard John DiPasquale

in the State of Maryland, of the first part, and

of the second part.

Witnesseth, That in consideration of the sum of five dollars (\$5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged the said H. Lee Brill

do es grant and convey unto the said Richard John DiPasquale, his

heirs and assigns, in fee simple, all those two lots of ground, situate, lying and being in 8th Election District of Baltimore County, aforesaid, and described as follows, that is to say:—

~~Beginning and Ending~~

Lots 21 and 22 Section B on the Plat of Talbott Manor, which said Plat of Talbott Manor is recorded among the Land Records of Baltimore County in Plat Book W.P.O. No. 13 Folio 71.

BEING two of the lots of ground which by Deed dated April 1, 1959 and recorded among the Land Records of Baltimore County in Liber W.J.R. No. 3512 Folio 150 were granted and conveyed by Ernest Lyon Homes, Inc. a body corporate, to H. Lee Brill, in fee simple, and also

BEING the same two lots of ground secondly described in a Deed dated December 31, 1955 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2903 Folio 135 were granted and conveyed by Carsdale Construction Co., Inc., a body corporate to Ernest Lyon Homes, Inc., a body corporate, in fee simple.

007*****	20488112	42-61 NY
052*****	20888112	42-61 NY
591*****	50688112	42-61 NY
5111*****	2688112	42-61 NY

**PROTESTANT'S
EXHIBIT NO. 2**

483 8 02 JUN 19

7.50 KSC

MICROFILMED

Together with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Richard John DiPasquale, his

heirs and assigns, in fee simple.

And the said party of the first part hereby covenant that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property granted and the he will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor

TEST:

Leslie S. Goldstein
Leslie S. Goldstein

H. Lee Brill (SEAL)
H. Lee Brill

____ (SEAL)

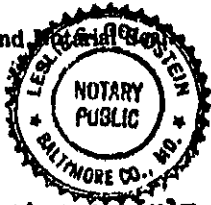
STATE OF MARYLAND, Baltimore County, to wit:

I HEREBY CERTIFY, That on this 14th day of June
in the year one thousand nine hundred and seventy four, before me, the subscriber,
a Notary Public of the State of Maryland, in and for the County aforesaid,
personally appeared H. Lee Brill

Rec'd for record JUN 19 1974 at 246
Per Elmer H. Kahline, Jr., Clerk
Mail to Richard J. DiPasquale
Receipt No. 100

the above named grantor and he acknowledged the foregoing Deed to be his

As Witness my hand and



Leslie S. Goldstein
Leslie S. Goldstein Notary Public.

My Commission expires: July 1, 1974

LIBR5455 PAGE 780

THIS DEED, Made this 21st day of June, 1974,
by and between THE HAMMERMAN ORGANIZATION, INC., a Maryland Corporation,
successor to S. L. HAMMERMAN ORGANIZATION, INC., party of the first
part, and Richard J. DiPasquale, an individual, party of the second part.

WITNESSETH, that in consideration of the sum of Five Dollars
(\$5.00), and other valuable considerations, the receipt whereof is
hereby grant and convey unto the said Richard J. DiPasquale, his successors
and assigns, in fee simple, all those five lots or parcels of ground
situate, lying and being in Baltimore County, Maryland, and described in
Exhibit A, attached hereto and made a part hereof.

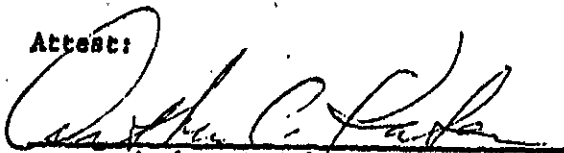
TOGETHER with the buildings and improvements thereupon erected,
made or being and all and every the rights, alleys, ways, waters, privileges,
appurtenances and advantages, to the same belonging, or anywise appertaining.

TO HAVE AND TO HOLD the said lots of ground and premises above
described and mentioned, and hereby intended to be conveyed; together
with the rights, privileges, appurtenances and advantages thereto
belonging or appertaining unto and to the proper use and benefit of the
said Richard J. DiPasquale, its successors and assigns, in fee simple.

AND the said party of the first part hereby covenants that
it has not done or suffered to be done any act, matter or thing
whatsoever, to encumber the property hereby conveyed; that it will warrant
specially the property granted and that it will execute such further
assurances of the same as may be requisite.

WITNESS the hand and seal of said Grantor.

Attest:


Arthur C. Kahan

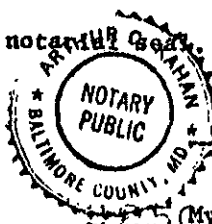
THE HAMMERMAN ORGANIZATION, INC.

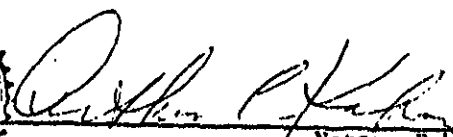
BY: 
I. H. Hammerman, President

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on the 21st day of June, 1974,
before me, the subscriber, a Notary Public in and for the State of Maryland and
County of Baltimore, personally appeared I. H. Hammerman, II, President of THE
HAMMERMAN ORGANIZATION, INC., and on behalf of said Corporation did acknowledge
the foregoing Deed to be the act of said Corporation.

WITNESS my hand and notary seal




Notary Public

MD 6 8322 24

My commission expires: 7/1/74

PROTESTANT'S
EXHIBIT NO. 3

We the undersigned, residents of Lutherville, object to the granting of variances to allow a minimum lot width of 50 (fifty) feet in lieu of the required 55 (fifty-five) feet, and to approve development on undersized lots, in Cases 95-67-A (Item 68) and 95-68-A (Item 69) for Lots # 23 and # 22 in Block B of Talbott Manor, also known as Luther Villa. We believe the granting of these variances would be detrimental to the health, safety, and welfare of the community.

Name (Please print name below signature)	Address	Witness
1. <u>Richard H Winchurda</u> Richard H. Winchurda	<u>1625 TREBOR CT</u>	<u>Barry Hunter</u>
2. <u>Arden Winchurda</u> Arden Winchurda	<u>1625 Trebor Ct</u>	<u>Barry Hunter</u>
3. <u>Joyce McWilliams</u> Joyce McWilliams	<u>1617 Trebor Ct</u>	<u>Barry Hunter</u>
4. <u>Jean Gottschalk</u> Jean GOTTSCALK	<u>1615 Trebor Ct.</u>	<u>Barry Hunter</u>
5. <u>John F. A. Fischer</u> JOHN F. A. FISCHER	<u>1605 TREBOR CT</u>	<u>Barry Hunter</u>
6. <u>Judith P. Hanford</u> JUDITH P. HANFORD	<u>1603 TREBOR CT</u>	<u>Barry Hunter</u>
7. <u>John L. Allen</u> John L. ALLEN	<u>1603 TREBOR Ct</u>	<u>Barry Hunter</u>
8. <u>Eileen P. Allen</u> EILEEN P. ALLEN	<u>1603 Trebor Ct.</u>	<u>Barry Hunter</u>
9. <u>Kevin Langan</u> KEVIN LANGAN	<u>1604 Trebor Ct</u>	<u>Barry Hunter</u>
10. <u>Nancy Langan</u> NANCY LANGAN	<u>1604 TREBOR CT</u>	<u>Barry Hunter</u>

PROTESTANTS
EXHIBIT NO. 6

RECEIVED

We the undersigned, residents of Lutherville, object to the granting of variances to allow a minimum lot width of 50 (fifty) feet in lieu of the required 55 (fifty-five) feet, and to approve development on undersized lots, in Cases 95-67-A (Item 68) and 95-68-A (Item 69) for Lots # 23 and # 22 in Block B of Talbott Manor, also known as Luther Villa. We believe the granting of these variances would be detrimental to the health, safety, and welfare of the community.

Name (Please print name below signature)	Address	Witness
1. <u>Michael Holt</u> MICHAEL HOLT	<u>1602 TREBOR CT</u> LUTHERVILLE MD 21093	<u>Barry Hunter</u>
2. <u>Burton H. Lehn</u> BURTON H. LEHN	<u>1606 Trebor Court</u> Lutherville, MD 21093	<u>Barry Hunter</u>
3. <u>Margaret S. Dunning</u> Margaret S. Dunning	<u>1612 Trebor Ct. 21093</u> Lutherville, Md.	<u>Barry Hunter</u>
4. <u>William M. Dunning</u> William M. Dunning	<u>1612 Trebor Court</u>	<u>Barry Hunter</u>
5. <u>Ellen M. Perry</u> ELLEN M. PERRY	<u>1614 TREBOR COURT</u> LUTHERVILLE, MD 21093	<u>Barry Hunter</u>
6. <u>Steven F. Perry</u> STEVEN F. PERRY	<u>1614 TREBOR COURT</u> LUTHERVILLE, MD 21093	<u>Barry Hunter</u>
7. <u>Linda Middleton</u> LINDA MIDDLETON	<u>1618 TREBOR CT</u> LUTHERVILLE MD 21093	<u>Barry Hunter</u>
8. <u>Dan Middleton</u> DAN MIDDLETON	<u>1618 TREBOR CT</u> LUTHERVILLE MD. 21093	<u>Barry Hunter</u>
9. <u>Terence A. Hogan</u> TERENCE A. HOGAN	<u>1620 Trebor Ct</u> Lutherville MD 21093	<u>Barry Hunter</u>
10. <u>John Waldman</u> John Waldman	<u>1622 Trebor Ct</u> Lutherville Md 21093	<u>Barry Hunter</u>

We the undersigned, residents of Lutherville, object to the granting of variances to allow a minimum lot width of 50 (fifty) feet in lieu of the required 55 (fifty-five) feet, and to approve development on undersized lots, in Cases 95-67-A (Item 68) and 95-68-A (Item 69) for Lots # 23 and # 22 in Block B of Talbott Manor, also known as Luther Villa. We believe the granting of these variances would be detrimental to the health, safety, and welfare of the community.

Name (Please print name below signature)	Address	Witness
1. <u>Cooper W. Delonch</u> Cooper W. Delonch	<u>1701 Leespring Dr.</u>	<u>Barry Hunter</u>
2. <u>Barry E. Hunter</u> BARRY E. HUNTER	<u>1621 TREBOR CT.</u>	<u>Cooper W. Delonch</u>
3. <u>Carol A. Hunter</u> CAROL A. HUNTER	<u>1621 Trebor Ct.</u>	<u>Cooper W. Delonch</u>
4. <u>Robert Canosa</u> Robert Canosa	<u>1619 Trebor Ct</u>	<u>Barry Hunter</u>
5. <u>Roslyn Canosa</u> Roslyn Canosa	<u>1619 Trebor Ct</u>	<u>Barry Hunter</u>
6. <u>Bailey Jacobs II</u> Bailey Jacobs II	<u>1607 Trebor Ct.</u>	<u>Barry Hunter</u>
7. <u>Valerie Waldman</u> Valerie Waldman	<u>1622 TREBOR CT - 21093</u> <small>Lutherville, Md.</small>	<u>Barry Hunter</u>
8. <u>Sue L. Harvey</u> SUE L. HARVEY	<u>1623 Trebor Ct.</u> <small>21093</small>	<u>Barry Hunter</u>
9. <u>Tom Fowble</u> Tom FOWBLE	<u>1616 TREBOR CT 21093</u>	<u>Barry Hunter</u>
10. <u>Linda Fowble</u> Linda Fowble	<u>1616 TREBOR Ct. 21093</u>	<u>Barry Hunter</u>

We the undersigned, residents of Lutherville, object to the granting of variances to allow a minimum lot width of 50 (fifty) feet in lieu of the required 55 (fifty-five) feet, and to approve development on undersized lots, in Cases 95-67-A (Item 68) and 95-68-A (Item 69) for Lots # 23 and # 22 in Block B of Talbott Manor, also known as Luther Villa. We believe the granting of these variances would be detrimental to the health, safety, and welfare of the community.

Name (Please print name below signature)	Address	Witness
1. <u>W. C. RUSSELL</u>	<u>333 W. SEMINARY AVE</u>	<u>Eric Rockel</u>
<u>W.</u>		
2. <u>Sarah B. Russell</u>	<u>333 W. Seminary Ave</u>	<u>Eric Rockel</u>
3. <u>Jinda Maddox</u>	<u>1427 Front Ave.</u>	<u>Eric Rockel</u>
4. <u>Paul Barnett Rudd</u>	<u>1601 Ridewood Dr</u>	<u>Eric Rockel</u>
5. <u>Ann J. Rudd</u>	<u>1601 Ridewood Dr.</u>	<u>Eric Rockel</u>
6. <u>Gerry Finnegan</u>	<u>325 Morris Ave</u>	<u>Eric Rockel</u>
7. <u>Robert Wingard</u>	<u>214 Morris Ave.</u>	<u>Eric Rockel</u>
8. <u>H.D. Withman</u>	<u>506 Morris Ave</u>	<u>Eric Rockel</u>
9. _____	_____	_____
10. _____	_____	_____

INTER-OFFICE CORRESPONDENCE

**PROSECUTANT'S
EXHIBIT NO. 7**



PETITIONER'S
EXHIBITS

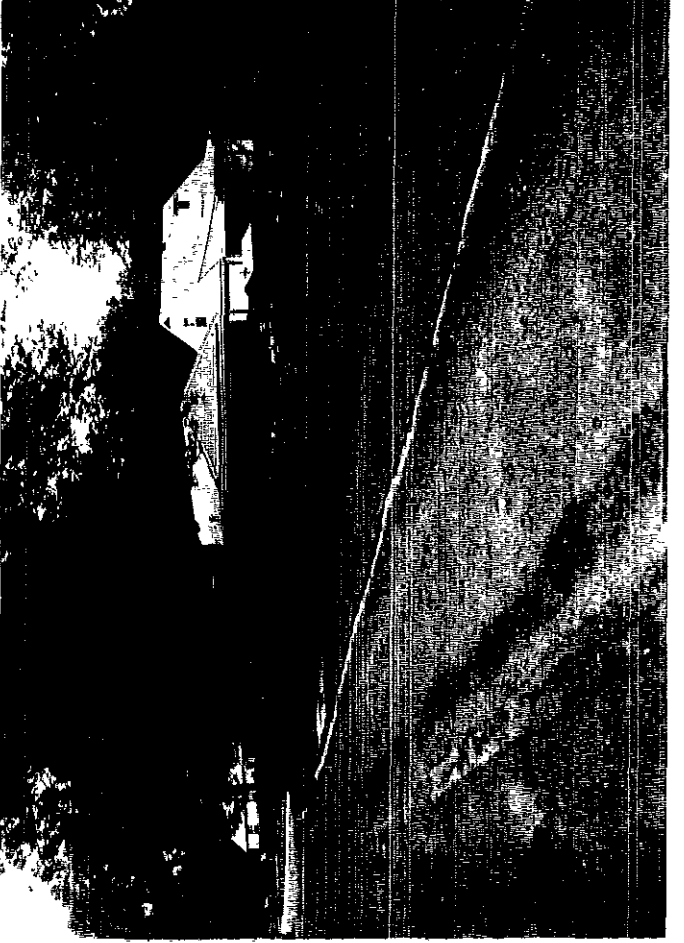
2A



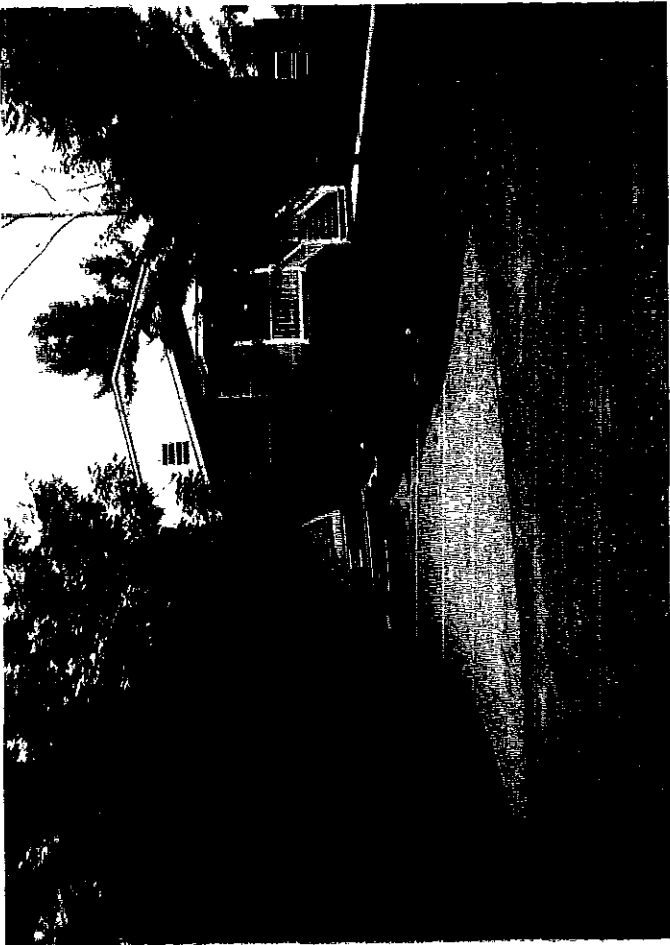
2C



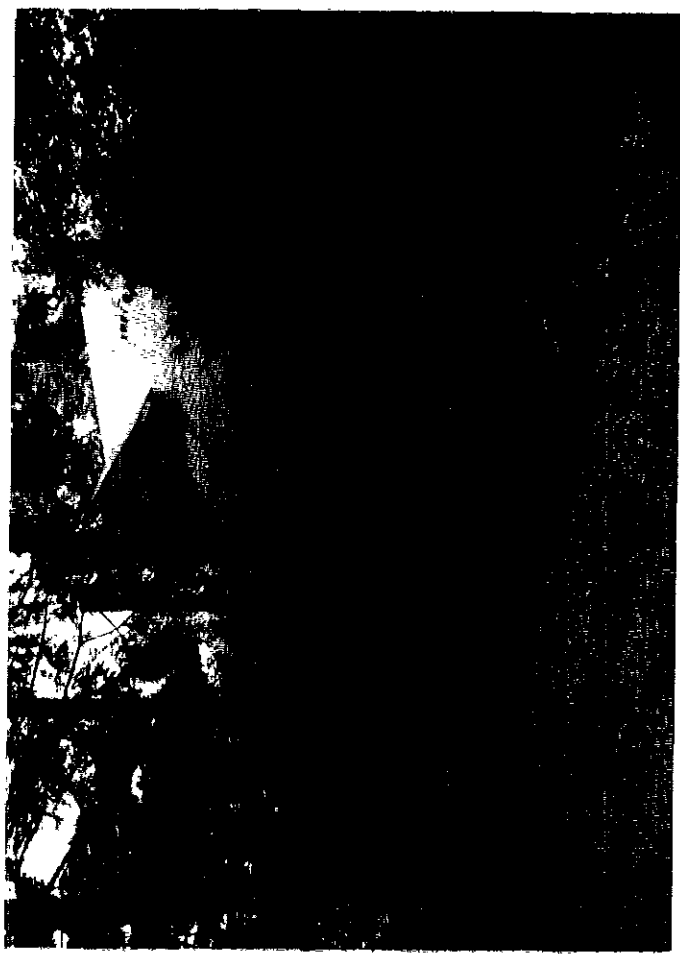
2B



2D



2E



2G



2F



2H



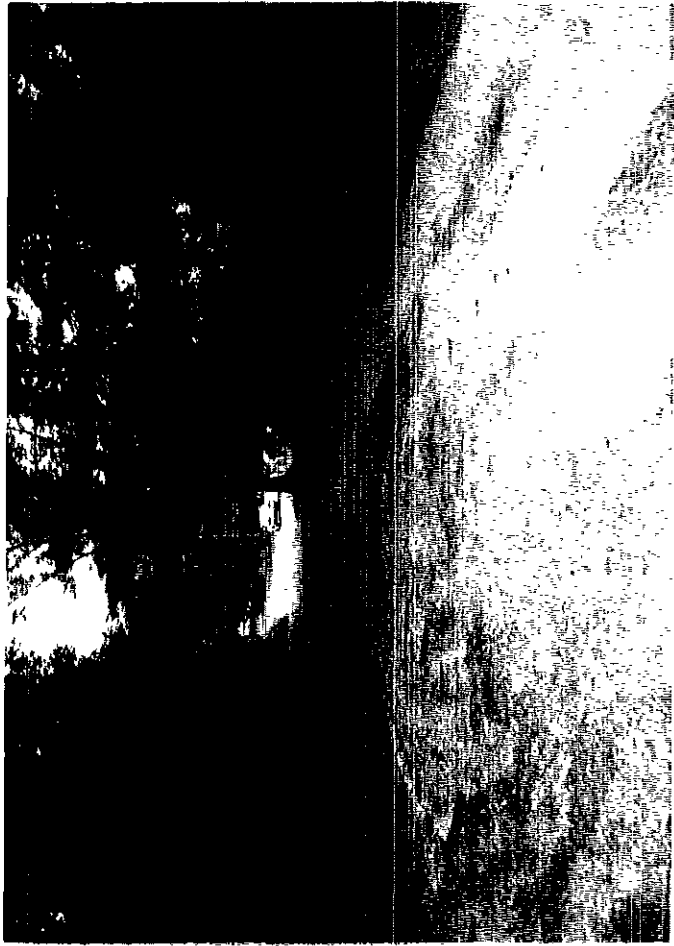
2I



2K



2J



2L

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 150272

DATE 11/18/94 ACCOUNT R-001-6150

AMOUNT \$ 210.00

RECEIVED Eric Roedel
FROM:

MICROFILMED

FOR: Appeal for Variance and Sign
1622 Riderwood Lutherville Drive
Case No. 95-67-A

01601#0032KICHR

\$210.00

NO 002-05A411-21-94

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

EXHIBIT A

DEED
from

THE HAMMERMAN ORGANIZATION, INC.
to

RICHARD J. DePASQUALE

All those fire lots or parcels of ground situate, lying and being in Baltimore County, State of Maryland being known and designated as Lots Nos. 23, 24, 25, 26, and 27 in Section "B" of the development known as Country Club Park (formerly called Lutherville), as shown on plat of same recorded among the Land Records of Baltimore County in Plat Book W.P.C., No. 7, folio 128.

BEING part of the same lots and parcels which by Deed dated November 8, 1950 and recorded among the Land Records of Baltimore County in Liber T. B. S., No. 1907, folio 496, was granted and conveyed by S. Lawrence Hammerman and Esther Hammerman his wife, to S. L. HAMMERMAN ORGANIZATION, INC., predecessor to THE HAMMERMAN ORGANIZATION, INC. in fee simple.

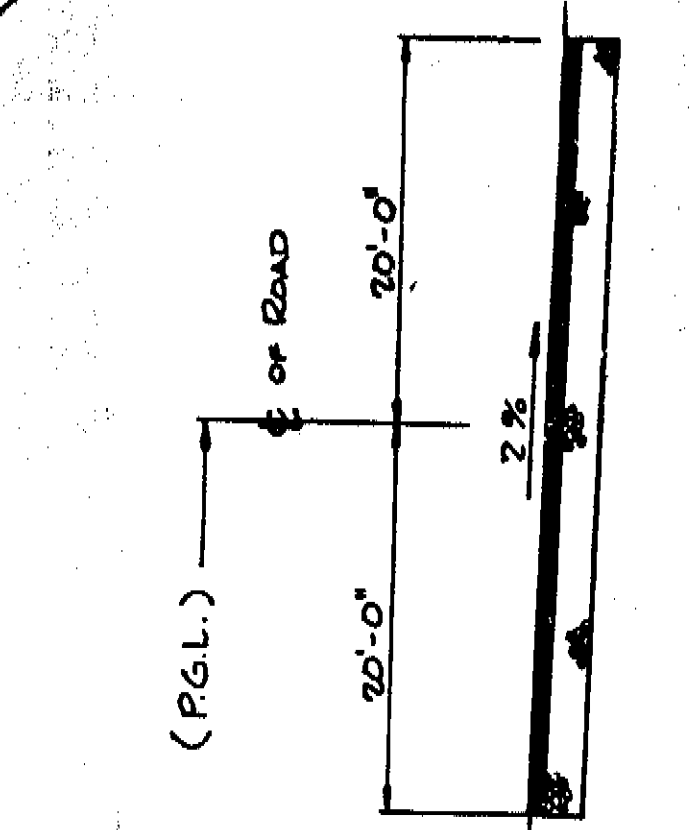
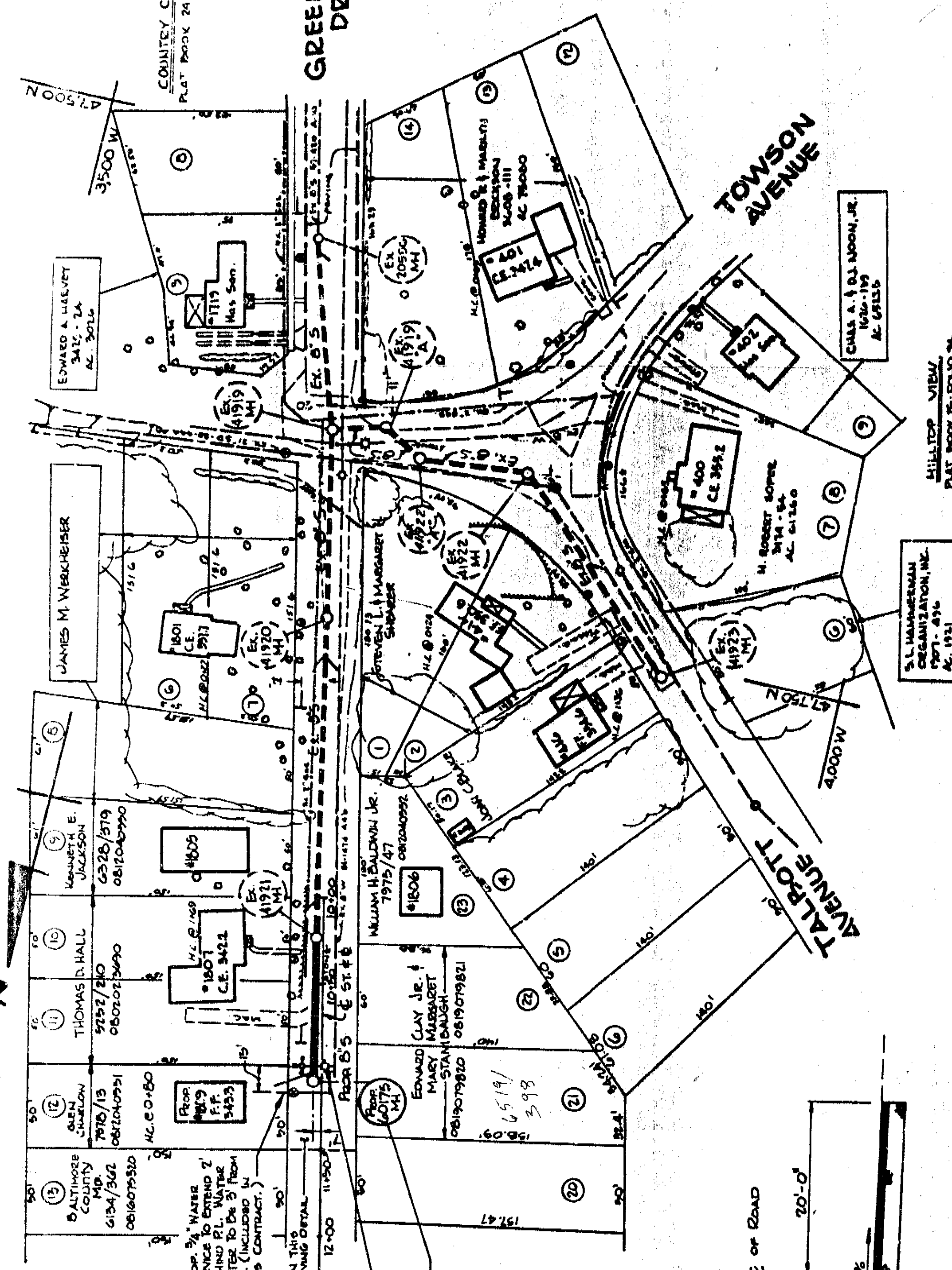
007*****	21270302	hL-h2 NNR
057*****	21270402	hL-h2 NNR
567*****	21270502	hL-h2 NNR
5761*****	21270502	hL-h2 NNR

Rec'd for record JUN 24 1974 at 141
Per Elmer H. Kahline, Jr., Clerk
Mail to Richard J. DePasquale
Receipt No. 700

We the undersigned, residents of Lutherville, object to the granting of variances to allow a minimum lot width of 50 (fifty) feet in lieu of the required 55 (fifty-five) feet, and to approve development on undersized lots, in Cases 95-67-A (Item 68) and 95-68-A (Item 69) for Lots # 23 and # 22 in Block B of Talbott Manor, also known as Luther Villa. We believe the granting of these variances would be detrimental to the health, safety, and welfare of the community.

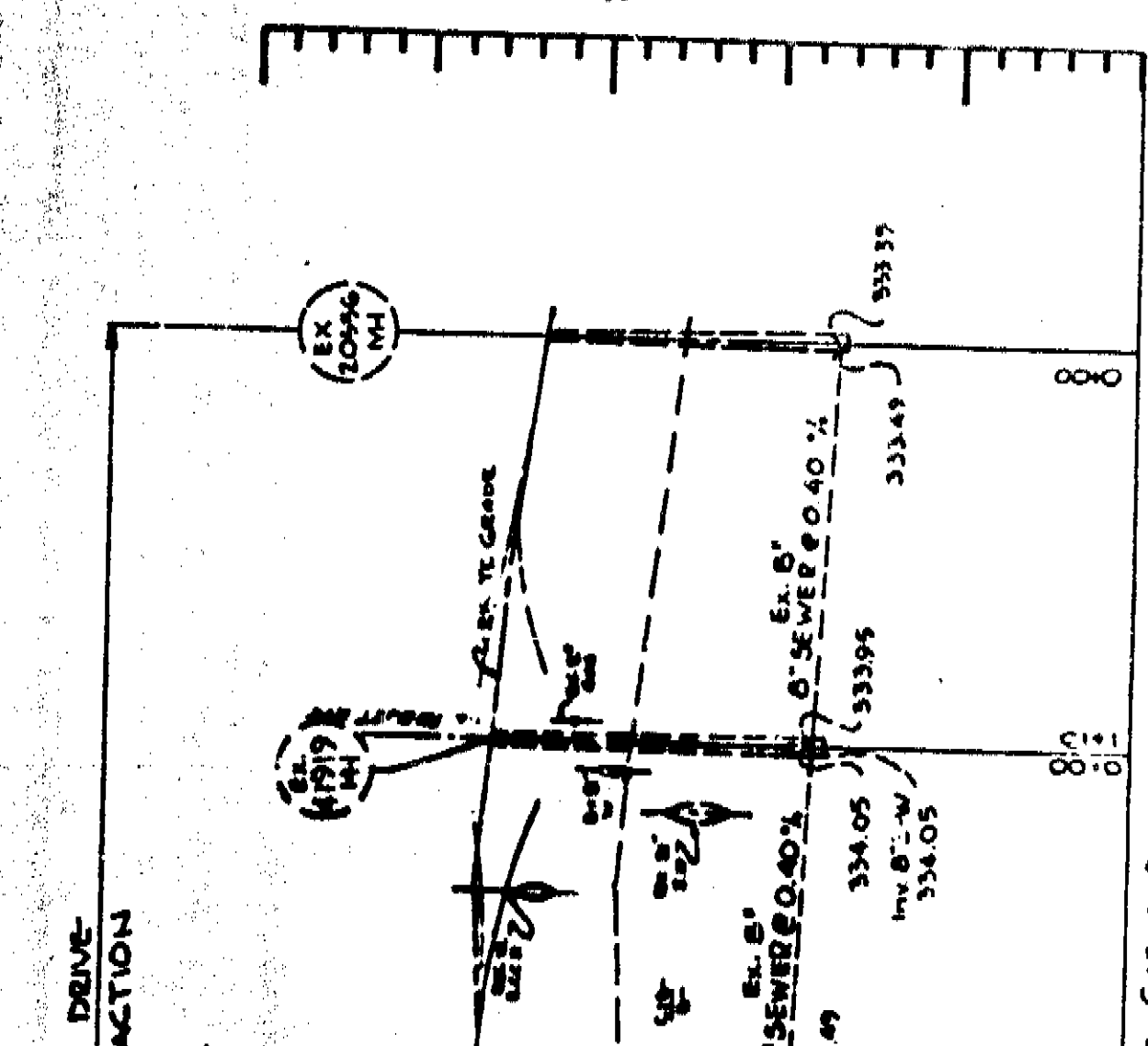
Name (Please print name below signature)	Address	Witness
1. <u>Kathy Feroli</u> <u>Kathy Feroli</u>	<u>802 Morris Ave</u> <u>Lutherville, Md 21093</u>	<u>Eric Rockel</u>
2. <u>Ervin L. Henry</u> <u>Er L Henry</u>	<u>912 Morris Ave</u> <u>Lutherville Md 21093</u>	<u>Eric Rockel</u>
3. <u>Harvey F. Henry</u> <u>Harvey F. Henry</u>	<u>1430 Burton Ave</u> <u>Lutherville Md 21093</u>	<u>Eric Rockel</u>
4. <u>Mr L. H. S.</u> <u>S. Wm. Weiss, Jr.</u>	<u>811 Morris Ave</u> <u>Lutherville, MD</u>	<u>Eric Rockel</u>
5. <u>JIM YOUNG</u>	<u>806 MORRIS AVE 21093</u>	<u>Eric Rockel</u>
6. <u>R. G. Vaughan</u> <u>R. G. Vaughan</u>	<u>308 MORRIS AVE.</u>	<u>Eric Rockel</u>
7. <u>Quen S. Vaughan</u>	<u>308 Morris Ave.</u>	<u>Eric Rockel</u>
8. <u>Donald M. Haly</u> <u>Donald M. Haly</u>	<u>915 MORRIS AVE.</u>	<u>Eric Rockel</u>
9. <u>Alexander Reitz</u> <u>ALEXANDER REITZ</u>	<u>1606 RIDERWOOD DR</u> <u>21093</u>	<u>Eric Rockel</u>
10. <u>Elizabeth Reitz</u> <u>Elizabeth Reitz</u>	<u>1606 Riderwood Dr.</u> <u>21093</u>	<u>Eric Rockel</u>

NO. OF HOUSE CONNECTIONS - 1, SINGLE



TYPICAL ROADWAY CROSS SECTION

PLAN
SCALE 1"=50'



7

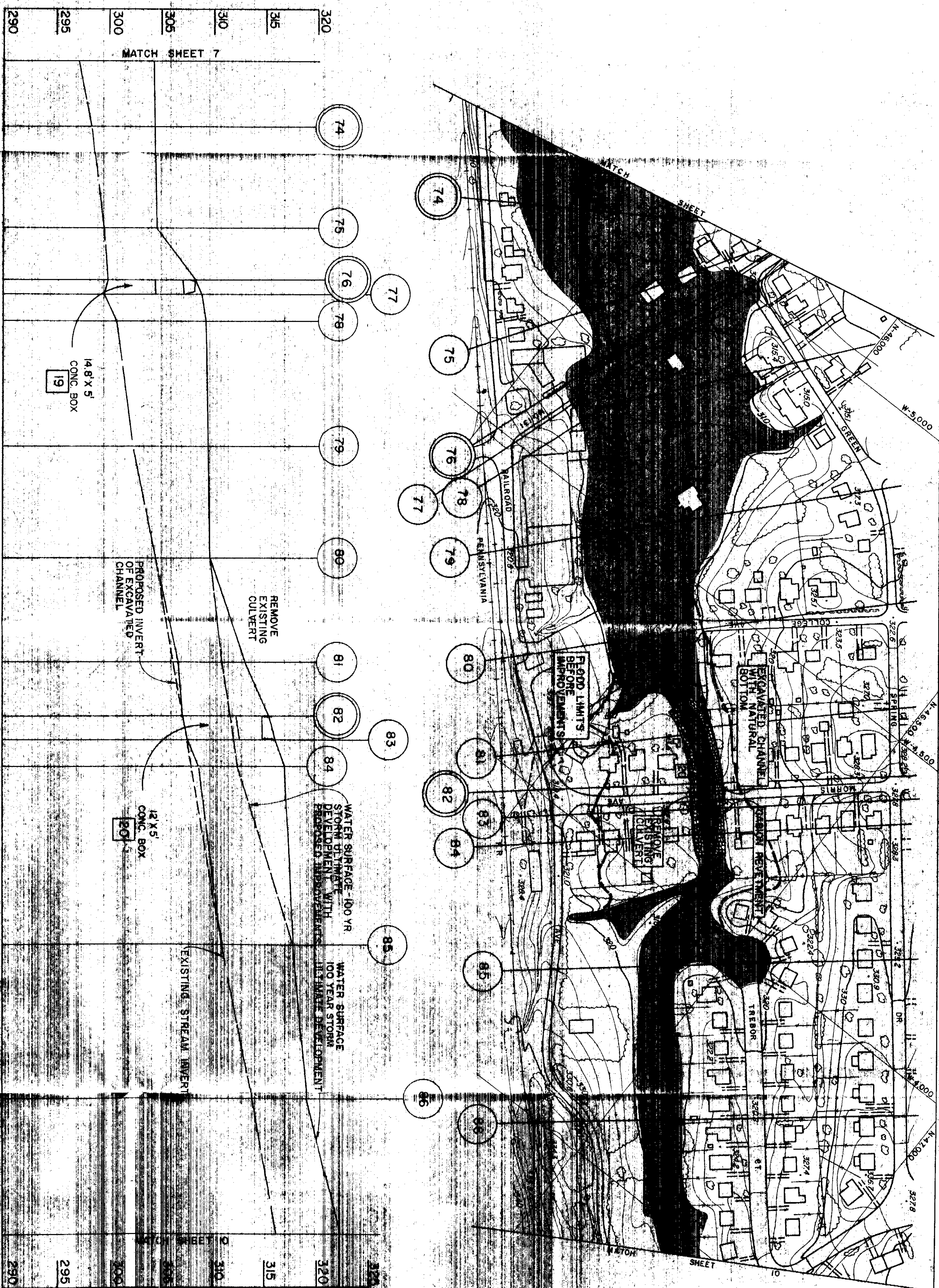
PROFILE
SCALE: HOR 1"=50'
VERT 1"=5'

CITY OF BALTIMORE									
DIRECTOR		DATE		CHIEF, UTILITY ENG. DIVISION DATE					
DEPT. OF PUBLIC WORKS				B'N. OF WATER AND WASTEWATER					
DATE	RIGHT OF WAY	REF.	ROAD PERMIT AND GRADES		P. W. A. DR. NO.	CONTRACT NO.	REVISED AS PER RECORD PRINT		
			PERMIT REQUESTED				J.O.	DRAFTSMAN	DATE
			PERMIT NUMBER						
			PLACET ESTABLISHED						
			PROFILES REFERRED TO		2000-01-001				
UNITS OF PRODUCTIONS		MICKETS		STRUCTURES	STONE	WATER	SEWER	JAILS	TRASHES
REVISED		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
ENGINEER		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
APPROVED		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
APPROVED		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
APPROVED		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
APPROVED		P. 1		10	10	10	10	10	10
DATE		P. 1		10	10	10	10	10	10
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DATE		P. 1		10	10	10	10	10	10
APPROVED		P. 1		10	10	10	10	10	1

1. THE CONTRACTOR SHALL MAINTAIN REPAIR AND/OR REPLACE ANY EXISTING SEDIMENT CONTROL DEVICES ENCOUNTERED AND MAINTAINED DURING THE COURSE OF CONSTRUCTION UNDER THIS CONTRACT AND AS SHOWN ON THE APPROVED SEDIMENT CONTROL PLAN AS PART OF THE CONTRACT DRAWINGS.
2. ALL SUCH DISTURBED DEVICES SHALL BE REPAIRED OR REPLACED THE NEXT MORNING THE WORK SITE AT THE END OF EACH WORKING DAY.
3. THE FEE FOR GRADING THE WORKING SITES, INCLUDING MATERIALS, SHALL BE PAID FOR BY LUMP SUM BID FOR MAINTENANCE AND REPAIR OF SEDIMENT CONTROL DEVICES.
4. ALL WORK UNDER THIS CONTRACT SHALL BE PERFORMED BY THE CONTRACTOR IN ACCORDANCE WITH BALTIMORE COUNTY SOLID WASTE DEPARTMENT DISTRICT PERMIT NO. 200-00-00-9-COUNTY 91
5. ALL CONSTRUCTION WILL BE ACCOMPLISHED IN ACCORDANCE WITH BALTIMORE COUNTY STANDARD SPECIFICATIONS AND DETAILS FOR CONSTRUCTION DATED 1976, AS AMENDED.
6. UNLESS OTHERWISE NOTED, THE BID LINE FOR EXCAVATION SHALL BE SUBGRADE UNDER PROPOSED ROADS, ESTABLISHED GRADE UNDER TURF AREAS AND EXISTING GRADE ALONG EXISTING PAVING.
7. THE DEVELOPER SHALL ACCOMPLISH ALL GRADING WITHIN EASEMENT AREAS WHERE UTILITIES ARE TO BE INSTALLED BEFORE NOTICE TO PROCEED WILL BE ISSUED.

6. THE CONTRACTOR WILL EXTEND ALL HOUSE CONNECTIONS 5 FEET INSIDE OF THE PROPERTY LINE.

7. THE CONTRACTOR WILL NOTIFY MISS UTILITY AT (800) 257-7777 AT LEAST 48 HOURS PRIOR TO STARTING WORK.



PROTESTANTS
EXHIBIT NO. 4

MICROFILMED

IN THE MATTER OF THE * BEFORE THE
THE APPLICATION OF * COUNTY BOARD OF APPEALS
FOR ZONING VARIANCE ON
PROPERTY LOCATED ON THE NORTH-
WEST SIDE RIDERWOOD LUTHERVILLE
DRIVE, 685' NE OF C/L MORRIS *
AVENUE (1622 RIDERWOOD *
LUTHERVILLE DRIVE) AND LOCATED *
ON THE NORTHEAST SIDE RIDERWOOD
LUTHERVILLE DRIVE, 735' NE OF *
C/L MORRIS AVENUE (1624 *
RIDERWOOD LUTHERVILLE DRIVE) *
8TH ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT *

RULING ON PETITIONER'S MOTION TO DISMISS

Having reviewed the Motion to Dismiss filed by Susan S. Flanigan, Esquire, on behalf of Petitioner in the subject matter, and the Answer to Motion to Dismiss filed by J. Carroll Holzer, Esquire, on behalf of Appellants /Protestants, and having considered the oral argument presented by Counsel before this Board on April 4, 1995, and for the reasons as stated during public deliberation of said Motion by this Board on April 19, 1995;

It is hereby this 21st day of April, 1995, by the County Board of Appeals of Baltimore County ORDERED that Petitioner's Motion to Dismiss be and the same is hereby GRANTED; and it is further

ORDERED that the appeals filed in Case No. 95-67-A and Case No. 95-68-A be and the same are DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz
Judson H. Lipowitz, Acting Chairman
S. Diane Levero
S. Diane Levero
Robert O. Schuetz
Robert O. Schuetz



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 28, 1995

Susan S. Flanigan, Esquire
COLE & HAMMOND
25 S. Charles Street, Suite 1008
Baltimore, MD 21201

RE: Case No. 95-67-A and Case No. 95-68-A
Richard J. DiPasquale, et ux

Dear Ms. Flanigan:

Enclosed is a copy of the Board's Ruling on Petitioner's Motion to Dismiss issued this date by the County Board of Appeals in the subject matter.

Very truly yours,

Christine E. Kelsch
Christine E. Kelsch
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Leonard Lockhart, President
Bayview Partnership, Inc.
Mr. & Mrs. Richard J. DiPasquale
J. Carroll Holzer, Esquire
Mr. Eric Rockel
Richard Matz /Colbert Engineering
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
W. Carl Richard, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Printed with Soybean Ink
on Recycled Paper

IN RE: * BEFORE THE
PETITIONS FOR VARIANCE * COUNTY BOARD OF APPEALS
NW/S Riderwood Lutherville Drive *
8th Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case Nos. 95-67-A & 95-68-A
Richard J. DiPasquale, et ux., *
Petitioners *

ANSWER TO MOTION TO DISMISS

The Lutherville Community Association, Inc., and Eric Rockel, individually, Protestants, by their attorney, J. Carroll Holzer and Holzer and Lee, hereby answers the Petitioners' Motion to Dismiss and says:

1. The Appellants recognize that the subject matter of this case included two Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. Those Petitions were filed by the owners of the property, Richard J. and Dina DiPasquale and the contract purchaser, Bayview Partnership by Leonard Lockhart, through their attorney. Appellants also recognize that in both cases, 95-6-A and 95-68-A, the Petitioners were denied the relief requested by the Deputy Zoning Commissioner on October 20, 1994. (See attached Opinion, Exh. A)
2. The Appellants are concerned, however, that in the Deputy Zoning Commissioner's decision, on page four, one of the Protestants, Mr. Eric Rockel, raised a Motion to Dismiss these matters, arguing that the lots in question were not vested, and therefore had lapsed and were not developable and should

LAW OFFICE
HOLZER AND LEE
770 WASHINGTON AVENUE
SUITE 502
TOWSON, MARYLAND
21204
(410) 825-6961
FAX (410) 825-4923

*Filed 3/4/95
KWW*

- not form the basis for the granting of the variance. In the Deputy Zoning Commissioner's decision, he recognized that the Office of Planning and Zoning appeared to support Mr. Rockel in this argument in their comments dated August 31, 1994. Deputy Zoning Commissioner then made it a point at the bottom of page four to make a ruling that the subdivision had not "lapsed" and he made reference to an opinion letter written by Arnold Jablon dated September 29, 1994. The Deputy Zoning Commissioner in his Opinion then concluded to agree with Mr. Jablon that these lots were vested and the subdivision approval had not lapsed. It was from this comment and findings of the Deputy Zoning Commissioner (DZC) that the Appellants took their appeal to this Board.
3. The Motion to Dismiss filed by the Petitioner itself is sufficient justification to warrant the concern of the Appellants in that in paragraph Ten, the Petitioners attempt to equate the DZC findings and agreement with Jablon's determination regarding the validity of the plats as being a finding of the DZC. If this is correct, the Appellants have a right to an appeal in this case. If the DZC finding relating to the validity of the subdivision was just dicta and not binding, then Appellees' Motion may be appropriate.
 4. The Appellants' position at the present time is that if the County Board of Appeals believes that the issue of the validity of the lots and subdivision which was the subject of the variance was not in question before the Deputy Zoning

2

Commissioner and that the Deputy's findings of fact and conclusion of law of October 20, 1994, as to that issue, is not binding upon the Appellants and so states in the Board's Order, then the matter may be dismissed to allow the Appellants to pursue their concern in another forum.

5. The Appellants would also suggest that the question concerning the validity of these lots is a relevant factor as it relates to the issue of whether a variance can be approved for two invalid lots. If that is the case, then the Appellants desire to have the Board hear this matter and determine that issue.

Respectfully submitted,

J. Carroll Holzer
J. Carroll Holzer
Holzer and Lee
305 Washington Avenue
Suite 502
Towson, Maryland 21204
(410) 825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 24th day of March 1995, a copy of the foregoing Answer to Motion to Dismiss was mailed, postage pre-paid, to Susan S. Flanigan, Esquire, and Peter Max Zimmerman, People's Counsel for Baltimore County, Basement, Old Courthouse, Towson, Maryland, 21204.

J. Carroll Holzer
J. Carroll Holzer

Answers/Rockel, MD

3

IN RE: * BEFORE THE
PETITIONS FOR VARIANCE * DEPUTY ZONING COMMISSIONER
NW/S Riderwood Lutherville Drive, *
685' and 735' NE of the c/l of *
Morris Avenue (1622 and 1624 *
Riderwood Lutherville Drive) * OF BALTIMORE COUNTY
8th Election District * Case Nos. 95-67-A and
4th Councilmanic District * 95-68-A
Richard J. DiPasquale, et ux *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Deputy Zoning Commissioner as Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. The Petitions were filed by the owners of the properties, Richard J. and Dina DiPasquale, and the Contract Purchaser, Bayview Partnership, Inc., by Leonard Lockhart, President, through their attorney, Susan S. Flanigan, Esquire. In both Case No. 95-67-A and 95-68-A, the Petitioners seek relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of the two properties with a single family dwelling. The subject properties and relief sought are more particularly described on the site plans submitted into evidence as Petitioner's Exhibits 1.

Appearing on behalf of the Petitions were Richard DiPasquale, property owner, Leonard H. Lockhart for the Bayview Partnership, Inc., Richard E. Matz, Professional Engineer, and Susan S. Flanigan, Esquire, attorney for the Petitioners. Appearing as Protestants were numerous residents of the surrounding community, including Eric Rockel, who participated in the proceedings.

Exh. A

COLE & HAMMOND
Attorneys at Law
117 Court House Plaza
Suite 202
Eaton, MD 21241
(410) 362-3223
25 S. Charles Street
Suite 1008
Baltimore, MD 21201
(410) 961-0980

1

IN RE: * BEFORE THE
PETITIONS FOR VARIANCE * DEPUTY ZONING COMMISSIONER
NW/S Riderwood Lutherville Drive, *
685' and 735' NE of the c/l of *
Morris Avenue (1622 and 1624 *
Riderwood Lutherville Drive) * OF BALTIMORE COUNTY
8th Election District * Case Nos. 95-67-A and
4th Councilmanic District * 95-68-A
Richard J. DiPasquale, et ux *
Petitioners *

MOTION TO DISMISS

Bayview Partnership, Inc., Petitioner, by its attorneys, Susan S. Flanigan and the Law Offices of Cole & Hammond, moves to dismiss the appeal filed by Mr. Eric Rockel on his behalf and on behalf of the Lutherville Community Association and says:

1. That the subject before the Zoning Commission was two Petitions for Variance; the validity of the subdivision plats was not a matter to be determined at the hearing.
2. That the Petitions for Variance were denied because the Petitioners failed to satisfy the burden placed on them in order to obtain the variance under Sections 304 and 307 of the B.C.Z.R. Specifically, it was found that Petitioners own sufficient adjoining land to conform to the width and area requirements and that Petitioners would not suffer practical difficulty if the Petitions were denied.
3. That at the hearing Mr. Rockel moved to dismiss stating that the lots were not vested and therefore the plats had lapsed.

4. That in his Findings of Fact & Conclusions of Law, dated October 20, 1994, the Deputy Zoning Commissioner stated that he did not believe that the subdivision had lapsed.

5. That the Lutherville Community Association and Mr. Rockel are specifically appealing the decision of the Deputy Zoning Commissioner that the subdivision plats are valid and did not lapse as he contends. (See Exhibit 1)

6. That Mr. Arnold Jablon determined in his September 29, 1994, letter to Ms. Kathy Feroli of the Lutherville Community Association that the subject plats have met the test for common law vesting. (See Exhibit 2)

7. That Mr. Jablon also stated in his September 29, 1994, letter that plat validity is not the subject of a zoning hearing.

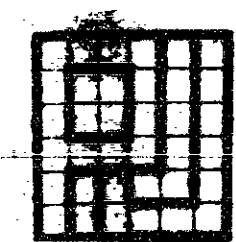
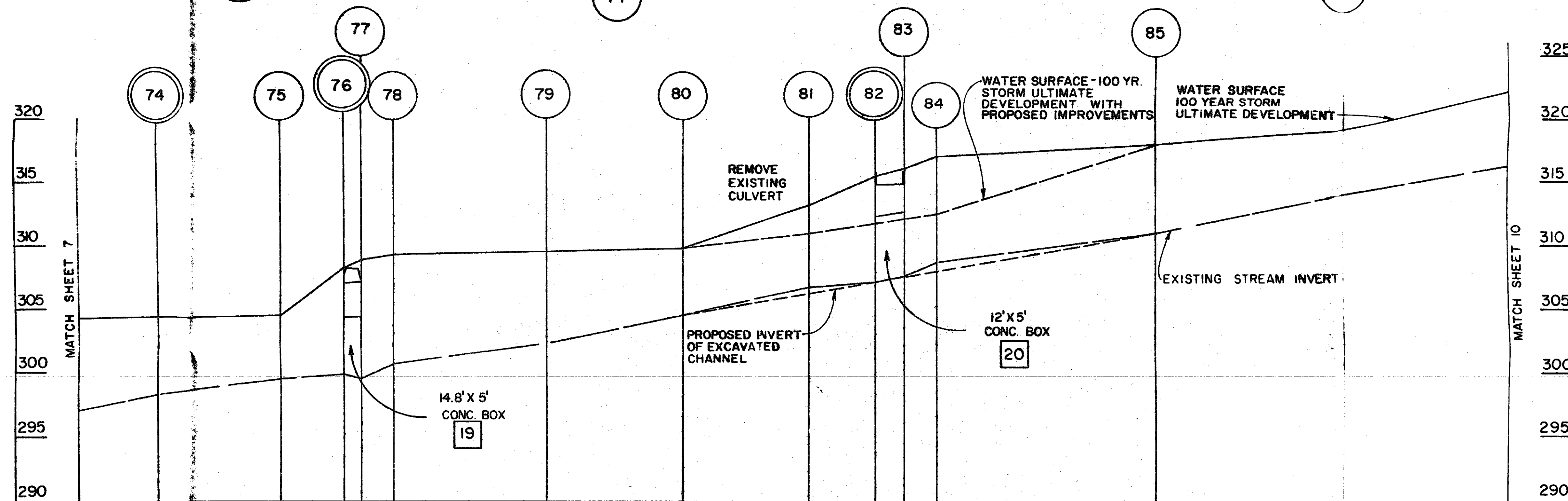
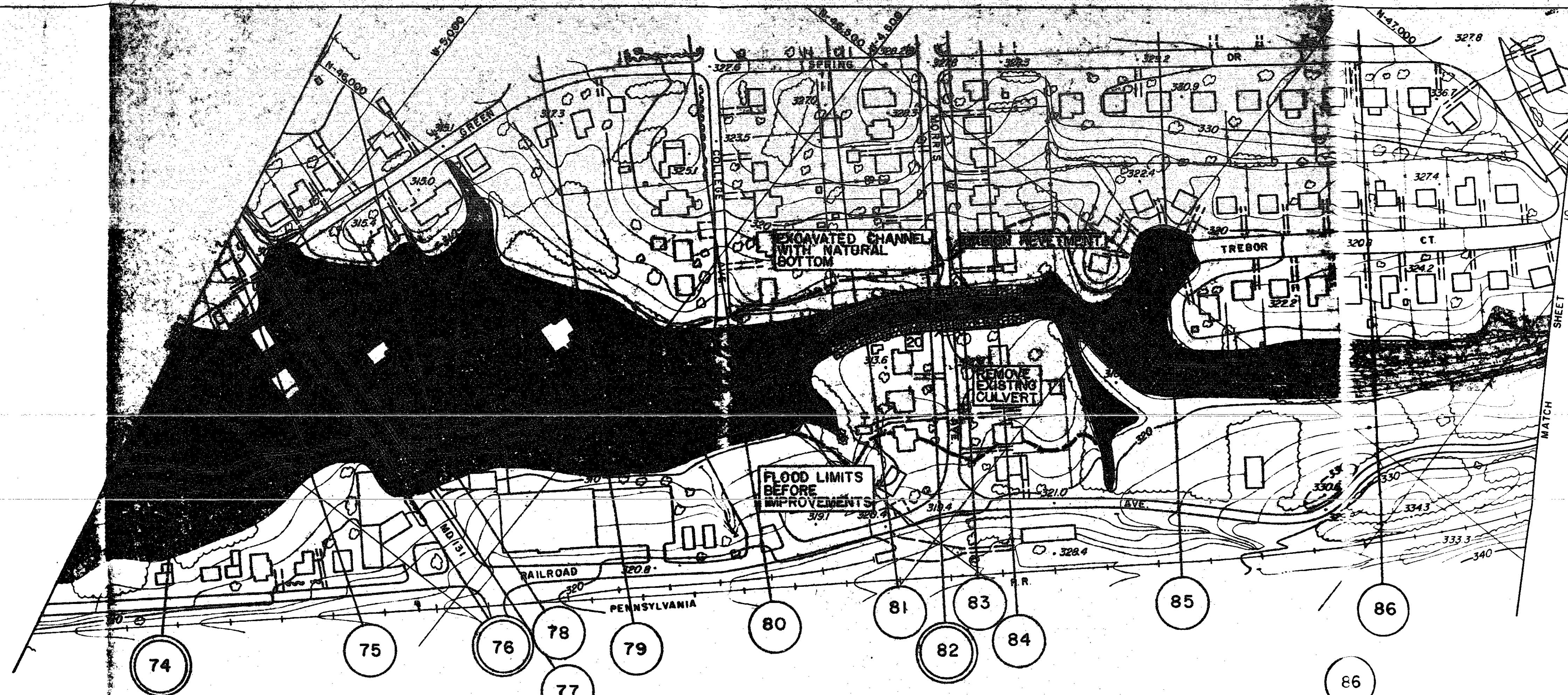
8. That because the Petitioners were not successful in obtaining the variances requested and because the Petitions for Variance were the only matters properly before the Zoning Commission, Mr. Rockel and the Lutherville Community Association have no basis for an appeal.

9. That the plat validity was not a matter to be determined at a zoning commission hearing and that the validity or non-validity of the plat did not effect the Deputy Zoning Commissioner's Conclusions of Law.

10. That Mr. Jablon's determination regarding the validity of the plats was made prior to the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law and is controlling.

COLE & HAMMOND
Attorneys at Law
117 Court House Plaza
Suite 202
Eaton, MD 21241
(410) 362-3223
25 S. Charles Street
Suite 1008
Baltimore, MD 21201
(410) 961-0980

2



PURDUM & JESCHKE
CONSULTING ENGINEERS
LAND SURVEYORS

- 100 YEAR FLOOD
- CROSS SECTION
- CROSS SECTION NUMBER

LEGEND

- CROSS SECTION WHERE STREAM FLOW HAS CHANGED (TR-20 REACH SECTION)
- STRUCTURE NUMBER

1ST FL. ABOVE FLOOD EL.
1ST FL. BELOW FLOOD EL.
PLAN AND PROFILE HORIZONTAL SCALE IN FEET
0 50 100 200 300

STREAM PLAN & PROFILE

FLOOD LIMITS AFTER IMPROVEMENTS

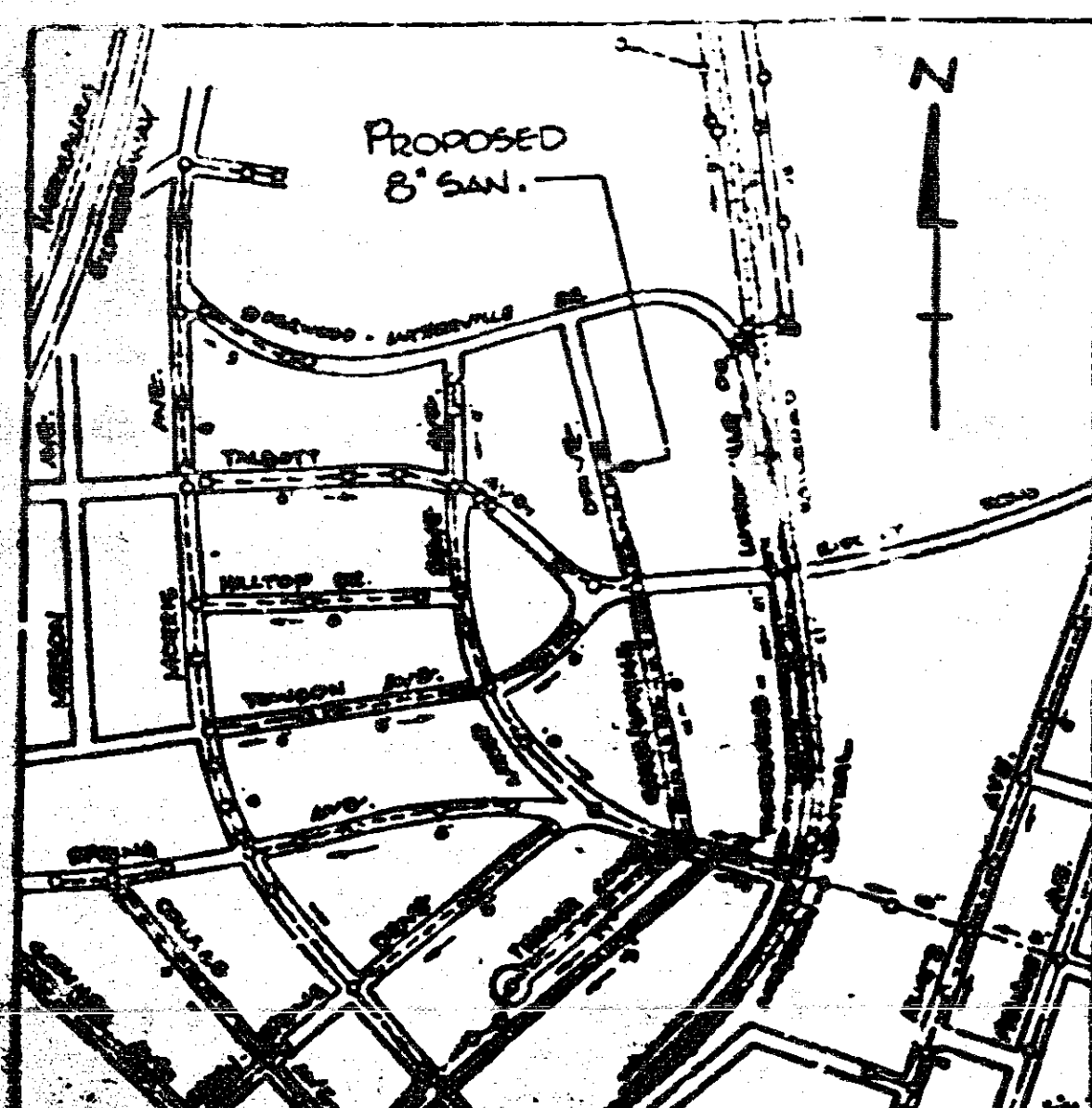
ROLAND RUN
LIMITS OF 100 YEAR FLOOD
ULTIMATE DEVELOPMENT

DRAWING NO.

9A of 17

PROTESTANT'S
EXHIBIT NO. 4

Lot 21822
Lutherville
8/13

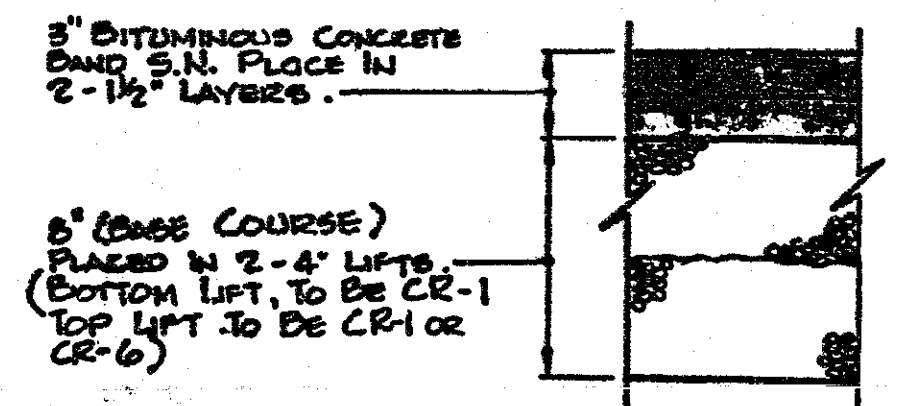


LOCATION MAP
SCALE 1"=500'

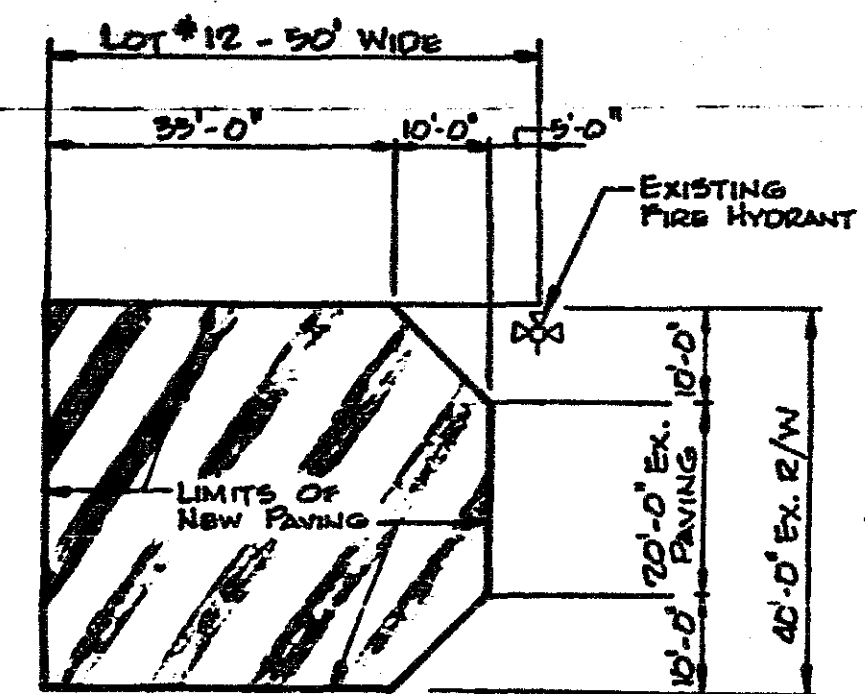
BENCH MARK
HUB # 3-8999
ELEVATION - 311.240'
DESCRIPTION: CUT-IN CURB
10' S. OF JUNCT. AT S. END CURB
RETURN SW CORNER YORK
AND EISELEY ROADS.

REFERENCE DRAWINGS

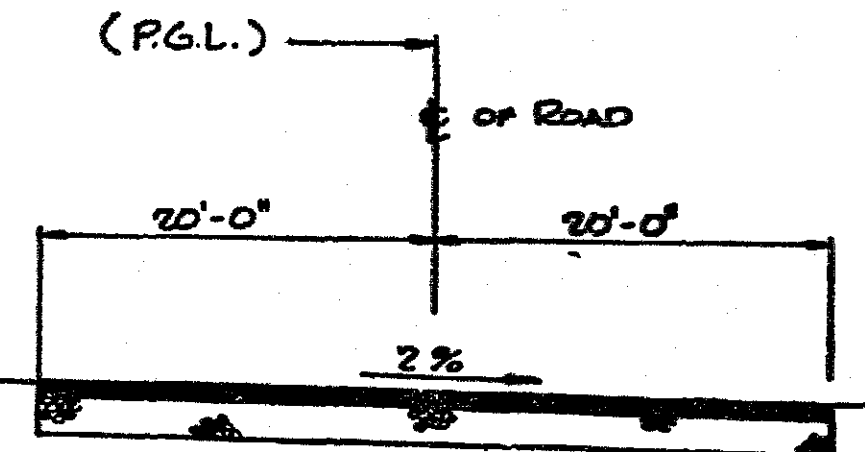
WATER: 26-584 A-4-B
34-1474 A-4-B
SEWER: 51-420 A-10, 70-0007
STORM DRAIN: 58-444 A-9
HIGHWAY: C-1535



TYPICAL PAVING CROSS SECTION



PLAN



TYPICAL ROADWAY CROSS SECTION

PAVING DETAIL

NOT TO SCALE

NOTE: PAVING TO BE DONE UNDER SEPARATE CONTRACT

- CONSTRUCTION NOTES:**
1. THE CONTRACTOR SHALL MAINTAIN, REPAIR AND/OR REPLACE ANY EXISTING SEDIMENT CONTROL DEVICES ENCOUNTERED AND DISTURBED DURING THE COURSE OF CONSTRUCTION UNDER THIS CONTRACT AND AS SHOWN ON THE APPROVED SEDIMENT CONTROL PLAN AS PART OF THE CONTRACT DRAWINGS. ALL SUCH DISTURBED DEVICES SHALL BE REPAIRED OR REPLACED BEFORE LEAVING THE WORK SITE AT THE END OF EACH WORKING DAY. THE COST OF PERFORMING SUCH WORK, INCLUDING MATERIALS, WILL BE PAID FOR BY LUMP SUM BID FOR MAINTENANCE AND REPAIR OF SEDIMENT CONTROL DEVICES.
 2. ALL WORK UNDER THIS CONTRACT SHALL BE PERFORMED BY THE CONTRACTOR IN ACCORDANCE WITH BALTIMORE COUNTY SOL CONSERVATION DISTRICT PERMIT NO. 388-88-9-COUNTY-91.
 3. ALL CONSTRUCTION WILL BE ACCOMPLISHED IN ACCORDANCE WITH BALTIMORE COUNTY STANDARD SPECIFICATIONS AND DETAILS FOR CONSTRUCTION, DATED 1976, AS AMENDED.
 4. UNLESS OTHERWISE NOTED, THE BID LINE FOR EXCAVATION SHALL BE SUBGRADE UNDER PROPOSED ROADS, ESTABLISHED GRADE UNDER TURF AREAS AND EXISTING GRADE ALONG EXISTING PAVING.
 5. THE DEVELOPER SHALL ACCOMPLISH ALL GRADING WITHIN EASEMENT AREAS WHERE UTILITIES ARE TO BE INSTALLED BEFORE NOTICE TO PROCEED WILL BE ISSUED.
 6. THE CONTRACTOR WILL EXTEND ALL HOUSE CONNECTIONS 5 FEET INSIDE OF THE PROPERTY LINE.
 7. THE CONTRACTOR WILL NOTIFY MISS UTILITY AT (800) 257-7777 AT LEAST 48 HOURS PRIOR TO STARTING WORK.

NOTE: CLEARING & GRUBBING TO BE THE CONTRACTOR'S RESPONSIBILITY UNDER THIS CONTRACT.

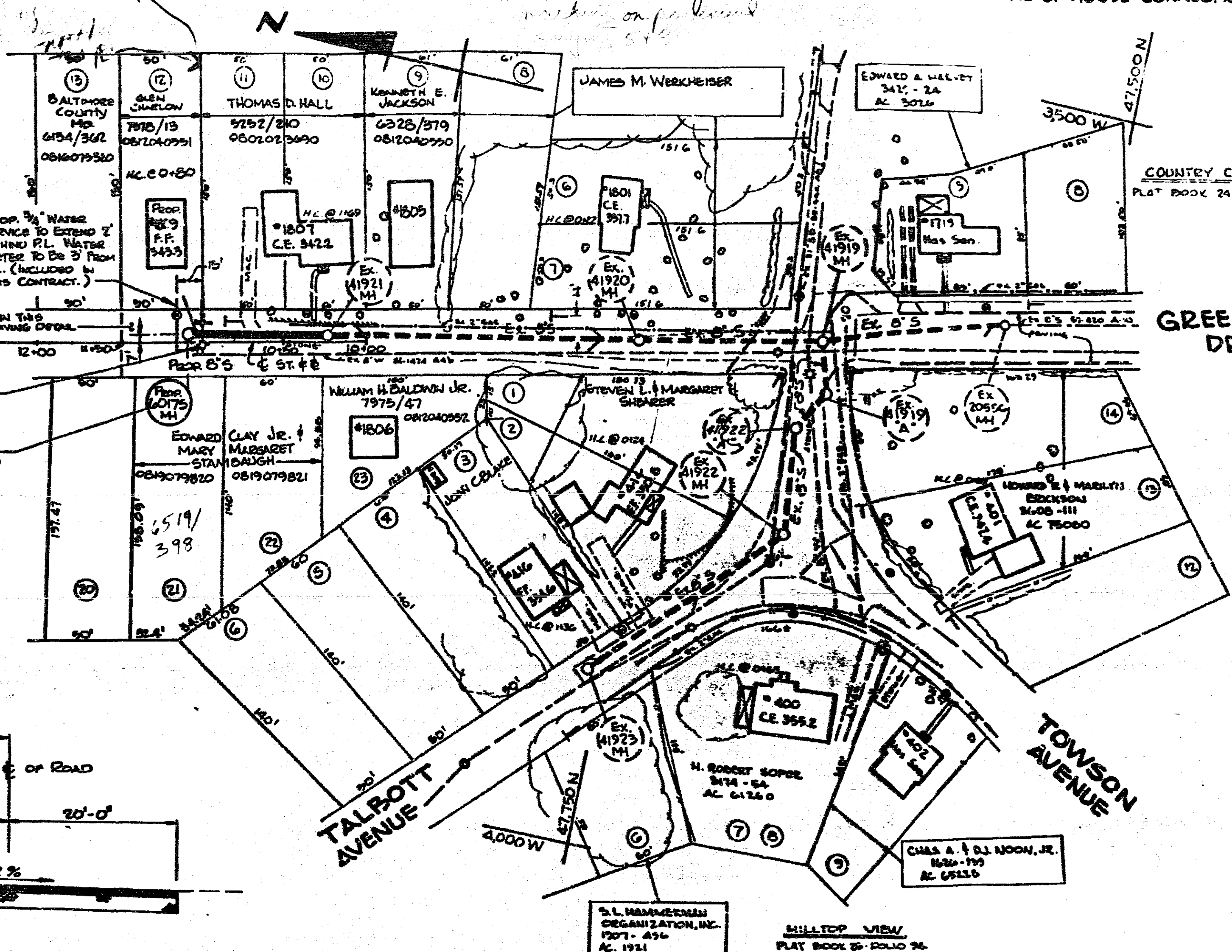
LUTHER-VILLA
PLAT BOOK 8 FOLIO 15

PROP. 3/4" WATER SERVICE TO EXTEND 2' BEHIND P.L. WATER METER TO BE 5' FROM P.L. (INCLUDED IN THIS CONTRACT.)

FOR PAVING IN THIS AREA, SEE PAVING DETAIL.

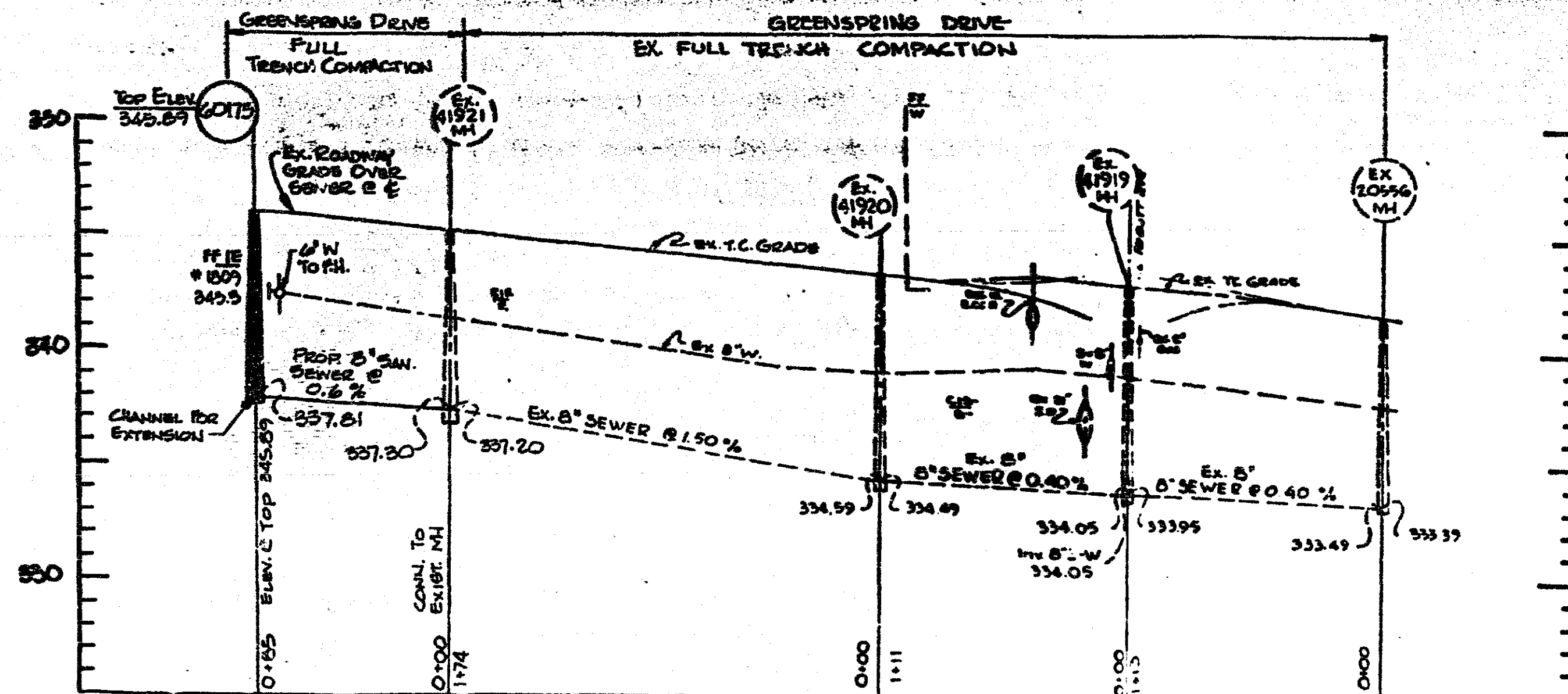
EX. WATER VALVE 5' FROM MAIN. FIELD VERIFIED BY METROTECH.

N 48,037.00
N 3,750.00



PLAN
SCALE 1"=50'

- NOTES:**
1. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL PROPERTIES AT ALL TIMES.
 2. TRENCH REPAIR SHALL BE AS PER R-35.



NOTE: C & P AND ELECTRIC CABLE OVERHEAD. NO GAS EXTENSION TO BE MADE.

PROFILE
SCALE: HOR 1"=50'
VERT 1"=5'

**PROTESTANT'S
EXHIBIT NO. 5**



CITY OF BALTIMORE									
DIRECTOR		DATE		CHIEF, UTILITY ENG. DIVISION DATE					
DEPT. OF PUBLIC WORKS				S'N. OF WATER AND SEWERAGE					
DATE	RIGHT OF WAY	REF.	ROAD PERMIT AND GRADES	P. W. A. DIR. NO.	CONTRACT NO.	REVISED AS PER RECORD PRINT			
			PERMIT REQUESTED			J.O.	DRAFTSMAN	DATE	
			PERMIT NUMBER						
			GRANT ESTABLISHED						
			PROFILE NUMBER 70-2210-91-0977						

BUREAU OF PUBLIC SERVICES										DEPARTMENT OF PUBLIC WORKS									
APPROVED					DATE					APPROVED					DATE				
[Signature]					2-25-91					[Signature]					2-25-91				

SCALE: PLAN 1"=50' PROFILE 1"=50'

BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS BUREAU OF ENGINEERING

FROM EXISTING GREENSPRING DRIVE

91-1-0511

91-1-0511

WHEREFORE, the Petitioner respectfully requests that the Appeal be dismissed.

Susan S. Flanigan
SUSAN S. FLANIGAN
Law Offices of Cole & Hammond
25 South Charles Street
Suite 1008
Baltimore, Maryland 21201
(410) 685-0880

COLE & HAMMOND
Attorneys at Law
111 Court House Plaza
Suite 202
Baltimore, Maryland 21202
(410) 392-3323
FAX: (410) 392-9359

3

Exhibit 1

November 5, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Cases Numbers
95-67-A & 95-68-A

Dear Mr. Jablon:

On my own behalf and on behalf of the Lutherville Community Association, we would like to appeal the decisions of the Deputy Zoning Commissioner in the cases referenced above concerning lots 22 and 23 in Section B of Luther Villa, also known as Talbott Manor. The applicable filing and posting fees are enclosed.

Specifically, we are only appealing the Deputy Zoning Commissioner's ruling with regard to the motion made by the Protestants on the lapse in validity of these lots and the fact that the lots are not vested. We believe the ruling did not address the specific context of the motion as it relates to Section 26-216 and 217 of the Baltimore County Code. As you are aware, Ms. Kathy Feroli of the Lutherville Community Association wrote you on this issue in a letter dated September 19, 1994. When you did not respond until after the hearing for these cases, the Hearing Officer commented that your determination would not bear on this issue, but rather he would issue a ruling on the question. Yet in that ruling he references your opinion on the matter and does not supply any substantive reasoning for his ruling other than the opinion issued in your letter. Your letter was not part of the testimony in the hearing, and it should not have been consulted in issuing the ruling. Finally, we believe the ruling failed to consider the requisite criteria established under the law.

Any future correspondence on this appeal should be sent to this writer at 1610 Riderwood Drive, Lutherville, Maryland 21093 and to the Lutherville Community Association, P.O. Box 6, Lutherville, Maryland 21094.

Sincerely,

Eric Rockel
Eric Rockel

RECEIVED
NOV 7 1994
ZADM

Exhibit 2

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

September 29, 1994

(410) 887-3333

Ms. Kathy Feroli
Lutherville Community Association
Post Office Box 6
Lutherville, MD 21093

RE: Plat validity

Dear Ms. Feroli:

This office is in receipt of your request dated September 19, 1994, concerning the validity of certain lots recorded among the Land Records of Baltimore County on the plats of "Luther Villa" and "Talbott Manor." I also acknowledge receipt of your check in the amount of \$40.00 for a written response on this matter.

I am aware that the lots which you reference in your letter are the subject of a variance hearing before the Zoning Commissioner scheduled for September 28, 1994. Numerous attempts to contact you prior to the hearing with this information have proven unsuccessful. Although plat validity is not the subject of the zoning hearing, it is obvious that the status of the record plat will, in part, determine if these lots are buildable.

Common law vesting in the state of Maryland requires that, in order to obtain a vested right to be constitutionally protected, one must obtain a permit and proceed under that permit to exercise it on the land involved so that the neighborhood may be advised that the land is being devoted to that use. Through the construction of public infrastructure such as water, sewer and roads, and the issuance of permits throughout the community, the subject plats have, at a minimum, met the test for common law vesting.

As you have indicated, Section 26-216 (c) of the Baltimore County Code further defines the parameters for vesting a subdivision. Specifically, the code states: "A subdivision, section or parcel thereof is hereby defined as developed, and is therefore considered to be vested, if any of the following has occurred with respect to such subdivision, section or parcel: (1) Building permits have been issued or substantial construction on required public or private improvement has occurred on such subdivision, section or parcel pursuant to the requirements of the department of public works."

In consideration of common law vesting and vesting provisions contained in the county code, it is the opinion of this office that the subject lots and all other infill lots within the recorded plats of "Luther Villa" and "Talbott Manor" are considered to be vested and thereby protected for future building provided that they meet current zoning requirements and all other applicable rules and regulations of Baltimore County. This includes, but is not limited to, the construction of public



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 9, 1995

Re: Cases No. 95-67-A and No. 95-68-A
Richard J. DiPasquale, et ux

Dear Mr. Rockel:

Enclosed is a copy of the Motion to Dismiss filed in the above-referenced matter by Susan S. Flanigan, Esquire, on behalf of Bayview Partnership, Inc., Petitioner.

Your response to this Motion is due in this office no later than Friday, March 24, 1995. Thereafter, the Board will rule in this matter.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Susan B. Flanigan, Esquire
Mr. Leonard Lockhart, Jr.
Mr. & Mrs. Richard J. DiPasquale
Richard E. Matz, P.E.
Colbert Matz Rosenfeld & Woolfolk, Inc.
People's Counsel for Baltimore County

LAW OFFICES OF
COLE & HAMMOND

103 Court House Plaza
Suite 202
Baltimore, Maryland 21202
(410) 392-3323
FAX: (410) 392-9359

Susan S. Flanigan

3/9/95
AJ-JW

25 S. Charles Street
Suite 1008
Baltimore, Maryland 21201
(410) 685-0880
FAX: (410) 685-0883

March 2, 1995

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petitions for Variance
NW/S Riderwood Lutherville Drive, 685' and 735' NE of the c/l
of Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux - Petitioners
Case nos. 95-67-A and 95-68-A

Dear Mr. Jablon:

Enclosed please find a Motion to Dismiss in the above-referenced cases. Please contact me if additional information is needed.

Thank you for your assistance.

Sincerely,

Susan S. Flanigan
Susan S. Flanigan

SSF/bmd
Enclosure

cc: Mr. Richard E. Matz, P.E.
Colbert Matz Rosenfeld & Woolfolk, Inc.

Mr. Leonard H. Lockhart, Jr.

RECEIVED
MAR 8 1995

ZADM

COLE & HAMMOND
ATTORNEYS AT LAW
111 COURT HOUSE PLAZA
SUITE 202
BALTIMORE, MD 21202
(410) 392-3323
FAX: (410) 392-9359

IN RE: PETITIONS FOR VARIANCE
NW/S Riderwood Lutherville Drive,
685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624
Riderwood Lutherville Drive)
8th Election District
4th Councilmanic District
Richard J. DiPasquale, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case Nos. 95-67-A and
95-68-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

These matters come before the Deputy Zoning Commissioner as Petitions for Variance for the properties known as 1622 and 1624 Riderwood Lutherville Drive, located in the Lutherville area of northern Baltimore County. The Petitions were filed by the owners of the properties, Richard J. and Dina DiPasquale, and the Contract Purchaser, Bayview Partnership, Inc., by Leonard Lockhart, President, through their attorney, Susan S. Flanigan, Esquire. In both Case No. 95-67-A and 95-68-A, the Petitioners seek relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of the two properties with a single family dwelling. The subject properties and relief sought are more particularly described on the site plans submitted into evidence as Petitioner's Exhibits 1.

Appearing on behalf of the Petitions were Richard DiPasquale, property owner, Leonard H. Lockhart for the Bayview Partnership, Inc., Richard E. Matz, Professional Engineer, and Susan S. Flanigan, Esquire, attorney for the Petitioners. Appearing as Protestants were numerous residents of the surrounding community, including Eric Rockel, who participated in the proceedings.

Testimony and evidence offered revealed that the two properties in question are 50-foot wide lots containing roughly 6600 sq.ft. each and zoned D.R. 5.5. The property at 1622 Riderwood Lutherville Drive is also known as Lot 23 of Country Club Park (formerly known as Luther Villa) while the property at 1624 Riderwood Lutherville Drive, is known as Lot 22 of Talbott Manor. Both properties are located immediately adjacent to one another and are presently unimproved. Mr. DiPasquale testified that he has owned the subject properties for over 20 years and that he presently also owns Lots 21 and 24 which are located on the opposite sides of Lots 22 and 23. Testimony indicated that the Petitioners have owned other lots elsewhere throughout the two above-named subdivisions. Mr. DiPasquale has entered into a contract to sell Lots 22 and 23 to the Contract Purchaser, Bayview Partnership, Inc., for the purpose of developing these lots with single family dwellings. Mr. Lockhart testified that Bayview Partnership intends to purchase five other lots along Riderwood Lutherville Drive and that they propose to develop all seven lots with victorian style homes which would eventually be sold to the general public.

On each of these lots, the Petitioners' request is two-fold. First, the Petitioners seek approval of the two lots in question as undersized lots, pursuant to the requirements contained within Section 304 of the B.C.Z.R. Secondly, the Petitioners seek a variance from the 55-foot lot width requirement, pursuant to Section 1B02.3.C.1 of the B.C.Z.R.

As to the approval of an undersized lot, I find that the Petitioners have failed to satisfy the requirements of Section 304 which governs the use of undersized single family lots. That Section provides that a property owner shall have the right to construct a one-family detached or semi-detached dwelling on an undersized lot, provided the property owner

meets the requirements of a three-pronged test set forth therein. One, the property must be duly recorded, either by deed or a validly approved subdivision, prior to March 30, 1955, the date of the first adopted comprehensive zoning regulations of Baltimore County. Secondly, the Petitioners must demonstrate that all other requirements of the height and area regulations can be met. Finally, the Petitioners must demonstrate that they do not own sufficient adjoining land to conform to the width and area requirements of the B.C.Z.R.

Testimony revealed that the Petitioners own Lots 21 and 24 which are located on either side of Lots 22 and 23. Mr. DiPasquale testified that he could easily adjust the lot lines for Lots 21, 22, and 23 by borrowing 10 feet from Lot 21 and adding 5 feet to both Lots 22 and 23, thereby bringing them both into compliance with the 55-foot lot width requirement. Therefore, it appears that the Petitioners own sufficient adjoining land which could be added to the lots in question in order to meet the minimum lot width requirement of 55 feet. Given the fact that the Petitioners own sufficient adjoining lands, they have failed to satisfy all three requirements of Section 304 and therefore, their request for approval under that section shall be denied.

As to the requested variance from Section 1B02.3.C.1 to permit a lot width of 50 feet in lieu of the required 55 feet for each lot, the Petitioners must satisfy the requirements of Section 307 of the B.C.Z.R. which governs the granting of variances. Section 307 of the B.C.Z.R. also sets forth a three-pronged test which the Petitioners must meet in order to qualify for variance relief. First, it must be shown that the Petitioners would suffer practical difficulty if the relief requested were denied. Secondly, relief can only be granted if that relief is within the spirit

and intent of the zoning regulations. Finally, the relief can be approved only if the granting of said relief will not be detrimental to the surrounding locale. I cannot find that the Petitioner would suffer practical difficulty given the facts of these cases. The Petitioners own sufficient adjoining land which would permit adjusting the lot lines in order to satisfy the requirements of the B.C.Z.R. Additionally, I do not believe that the granting of the variance would be within the spirit and intent of the zoning regulations inasmuch as the Petitioners own sufficient adjoining property. Therefore, I believe the Petitioners' request for variance relief from Section 1802.3.C.1 should be denied. In the opinion of this Deputy Zoning Commissioner, the most appropriate manner to develop these properties would be to do a "lot line adjustment" to Lots 21, 22 and 23.

The Protestants who appeared at the hearing offered testimony opposing the granting of the variance relief. It is not necessary to recount the testimony presented by the Protestants inasmuch as the Petitioners have failed to satisfy the burden imposed upon them in order to obtain relief under Sections 304 and 307 of the B.C.Z.R. While the Protestants' testimony was very important, it was not needed for this Deputy Zoning Commissioner to deny the requested relief. However, it should be noted that one of the Protestants, Mr. Eric Rockel, raised a motion to dismiss these matters, arguing that the lots in question were not vested, and therefore, had lapsed and were not developable. In their comments dated August 31, 1994, the Office of Planning and Zoning appeared to support Mr. Rockel in this argument. I disagree with Mr. Rockel and the Office of Planning and Zoning as I do not believe that this subdivision has lapsed. Reference is made to an opinion letter written by Arnold Jablon director of Zoning Administration and Development Management, dated

- 4 -

September 29, 1994. Mr. Jablon addressed the validity of the two lots in question. I agree with Mr. Jablon in his conclusion that these lots are vested and the subdivision approval has not lapsed.

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variances were denied. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variances requested are hereby denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 20th day of October, 1994 that the Petitions for Variance in Case Nos. 95-67-A and 95-68-A seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50 feet in lieu of the required 55 feet and to approve an undersized lot, pursuant to Section 304 of the B.C.Z.R. for the proposed development of 1622 and 1624 Riderwood Lutherville Drive with a single family dwelling in accordance with Petitioner's Exhibits 1, be and are hereby DENIED.

TWK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

- 5 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

October 20, 1994

(410) 887-4386

Susan S. Flanigan, Esquire
Cole & Hammond
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201

RE: PETITIONS FOR VARIANCE
NW/8 Riderwood Lutherville Drive, 685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux - Petitioners
Case Nos. 95-67-A and 95-68-A

Dear Ms. Flanigan:

Enclosed please find a copy of the decision rendered in the above-captioned matters. The Petitions for Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TWK:bjs

cc: Mr. & Mrs. Richard J. DiPasquale
1837 White Oak Avenue, Baltimore, Md. 21234

Mr. Leonard H. Lockhart, President, Bayview Partnership, Inc.
P.O. Box 187, Rising Sun, Md. 21111

Mr. Eric Rockel
1610 Riderwood Drive, Lutherville, Md. 21093

People's Counsel; File

Printed with Soybean Ink
on Recycled Paper

RE: PETITION FOR VARIANCE
1622 Riderwood Lutherville Drive,
NW/8 Riderwood Lutherville Drive,
685' NE of c/l Morris Avenue, 8th
Election District, 4th Councilmanic
Richard J. and Dina DiPasquale
Petitioners
BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-67-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of August, 1994, a copy of the foregoing Entry of Appearance was mailed to Susan S. Flanigan, Esquire, Cole & Hammond, 25 S. Charles Street, Suite 1008, Baltimore, MD 21201, attorney for Petitioners.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at RIDERWOOD LUTHERVILLE DRIVE (1622)
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1. TO ALLOW A MINIMUM LOT WIDTH OF 50 FT. IN LIEU OF THE REQUIRED 55 FT. ON LOT 23 AND TO APPROVE AN UNDERSIZED LOT PER SECTION 304 (BCZR).

Under the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate basis for petition and grounds)
THE EXISTING LOT IS IN A RECORDED SUBDIVISION OF 1924. ZONING REGULATIONS SUBSEQUENT TO THE PLAT MADE THIS LOT SLIGHTLY SMALLER THAN REQUIRED. THE GRANTING OF THIS VARIANCE WOULD NOT CHANGE THE NATURE OR TYPE OF HOUSE PLANNED FOR THIS LOT.

Property is to be used and governed as prescribed by Zoning Regulations.

I, the undersigned, do hereby certify that the facts stated in this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County as set forth in the Zoning Law for Baltimore County.

Legal Owner(s):
RICHARD E. MATZ/COLEBERT ENGINEERING, INC.
Type of Petitioner: Legal Owner(s)
Signature: *Richard E. Matz*
Name: RICHARD E. MATZ/COLEBERT ENGINEERING, INC.
Address: 1837 WHITE OAK AVENUE
City: BALTIMORE MD 21234
Phone No: 21234
City: BALTIMORE MD 21204
Phone No: 21204
City: BALTIMORE MD 21201
Phone No: 21201
City: BALTIMORE MD 21208
Phone No: 21208

ESTIMATED LENGTH OF HEARING
intermittent for Hearing
the following date: Next Two Months
ALL OTHER DATE
REVIEWED BY: DATE

ORIGINAL RECEIVED FOR FILING
Date: 8-17-94
By: WCR

ZONING DESCRIPTION

Being Lot 23 as shown on Sec. B of the development known as Country Club Park (formerly called Lutherville), said Lot being 685 feet from the intersection of Morris Avenue and Riderwood-Lutherville Drive, recorded in Baltimore County Plat Book No. 7, Folio 128, containing 6,600 square feet. Also known as 1622 Riderwood-Lutherville Drive and located in the 8th Election District.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th Date of Posting: 9/9/94
Posted for: Variance
Petitioner: Richard J. DiPasquale & Dina DiPasquale
Location of property: 1622 Riderwood Lutherville Drive, NW/8
Location of Sign: Per lot at end of road looking to property
Remarks: Petitioners to sign
Posted by: *Michelle* Date of return: 9/14/94
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., Sept 2, 1994
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Sept 1, 1994.

THE JEFFERSONIAN,
A. Henrichs
LEGAL AD. - TOWSON

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the proposed Variance from the Zoning Regulations of Baltimore County, 8th Election District, 4th Councilmanic District, 111 W. Charles Avenue, Towson, Maryland 21204, on the 11th day of September, 1994, at 1:00 p.m. in Room 110, Courthouse Building, 400 Washington Avenue, Towson, Maryland 21204.

Case: 95-67-A
(Item 8)
1622 Riderwood Lutherville Drive, NW/8
Riderwood Lutherville Drive, 685' NE of c/l Morris Avenue
8th Election District
4th Councilmanic District
Legal Owner(s):
Richard J. DiPasquale and Dina DiPasquale
Contract Purchaser:
Bayview Partnership, Inc.
Hearing: Wednesday, September 29, 1994 at 1:00 p.m. in Room 100, Courthouse Building

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot #23 and to approve an undersized lot

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: Willingness to attend public hearing is required for appeal. For appeal information, please call 887-3391. For information regarding the file and/or hearing, please call 887-3391. 887-3391

receipt
95-67-A
Account: R-001-6150
Number: 68 (WCR)
NO REVIEW - DROP-OFF

Date: 9/17/94
#010 - VARIANCE \$50.00
#030 - SIGN POSTING 35.00
TOTAL \$85.00

Legal Owner: Richard J. DiPasquale & Dina DiPasquale
Contract Purchaser: Bayview Partnership, Inc.
1622 Riderwood Lutherville Drive
6,600 square feet
District: 8th
Attorney: Susan S. Flanigan

Check from: Maryland Investigative Service, Inc.
03A03#0124M1CHRC \$85.00
BA C009706A#08-18-94
Please Make Checks Payable To: Baltimore County
Cashier Validation

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 11/18/94 ACCOUNT: R-001-6150
AMOUNT: \$ 210.00

RECEIVED FROM: Eric Rockel

FOR: Appeal for Variance and Sign
1622 Riderwood Lutherville Drive
Case No. 95-67-A
\$210.00
VALIDATION ON SIGNATURE OF CASHIER
WHITE - CASHIER PINK - HANDED YELLOW - OUTSTANDING

TO: PUPPENT PUBLISHING COMPANY
September 1, 1994 Issue - Jeffersonian

Please forward billing to:

Susan S. Flanigan
Cole & Hancock
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201
685-0880

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-67-A (Item 68)
1622 Ridewood Lutherville Drive
NW/8 Ridewood Lutherville Drive, 685' NE of c/l Morris Avenue
8th Election District - 4th Councilmanic
Legal Owner(s): Richard J. DiPasquale and Mrs. DiPasquale
Contract Purchaser(s): Bayview Partnership, Inc.
HEARING: WEDNESDAY, SEPTEMBER 28, 1994 at 11:00 a.m. in Room 106, County Office Building.

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot 623 and to approve an undersized lot.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

AUGUST 26, 1994

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-67-A (Item 68)
1622 Ridewood Lutherville Drive
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8th Election District - 4th Councilmanic
Legal Owner(s): Richard J. DiPasquale and Mrs. DiPasquale
Contract Purchaser(s): Bayview Partnership, Inc.
HEARING: WEDNESDAY, SEPTEMBER 28, 1994 at 11:00 a.m. in Room 106, County Office Building.

Variance to allow a minimum lot width of 50 feet in lieu of the required 55 feet on Lot 623 and to approve an undersized lot.

Pat Keller
Pat Keller
Director

cc: Richard and Mrs. DiPasquale
Bayview Partnership
Susan S. Flanigan
Richard Matz/Colbert Engineering

NOTES: (1) HEARING SET & MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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on Recycled Paper



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 27, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-67-A

RICHARD J. DIPASQUALE, ET UX
NW/s Ridewood Lutherville Drive, 685' NE of
c/l Morris Avenue (1622 Ridewood Lutherville
Drive)

AND

CASE NO. 95-68-A

NW/s Ridewood Lutherville Drive, 735' NE of
c/l Morris Avenue (1624 Ridewood Lutherville
Drive)
8th Election District
4th Councilmanic District

VAR -To permit lot width of 50'; undersized
lot.

10/20/94 -D.Z.C.'s Order in which Petitions
for Variance were DENIED.

ASSIGNED FOR: TUESDAY, APRIL 4, 1995 at 10:00 a.m.

cc: Mr. Eric Rockel

Appellant /Protestant

Susan S. Flanigan, Esquire Counsel for Petitioners
Mr. & Mrs. Richard J. DiPasquale Petitioners
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotrocco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

RECEIVED
JAN 30 1995
ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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on Recycled Paper



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

January 27, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 95-67-A

RICHARD J. DIPASQUALE, ET UX
NW/s Ridewood Lutherville Drive, 685' NE of
c/l Morris Avenue (1622 Ridewood Lutherville
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AND

CASE NO. 95-68-A

NW/s Ridewood Lutherville Drive, 735' NE of
c/l Morris Avenue (1624 Ridewood Lutherville
Drive)
8th Election District
4th Councilmanic District

VAR -To permit lot width of 50'; undersized
lot.

10/20/94 -D.Z.C.'s Order in which Petitions
for Variance were DENIED.

ASSIGNED FOR: TUESDAY, APRIL 4, 1995 at 10:00 a.m.

cc: Mr. Eric Rockel

Appellant /Protestant

J. Carroll Holzer, Esquire Counsel for Appellant /Protestant
Susan S. Flanigan, Esquire Counsel for Petitioners
Mr. & Mrs. Richard J. DiPasquale Petitioners
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.

People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotrocco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 4, 1995

NOTICE OF DELIBERATION

Having received oral argument on April 4, 1995 on the Motion to Dismiss and response filed thereto in the subject matter, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

RICHARD J. DIPASQUALE, ET UX
CASE NO. 95-67-A /CASE NO. 95-68-A

DATE AND TIME : Wednesday, April 19, 1995 at 9:30 a.m.

LOCATION : Room 48, Basement, Old Courthouse

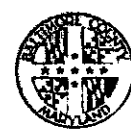
cc: J. Carroll Holzer, Esquire Counsel for Appellant /Protestant
Mr. Eric Rockel Appellant /Protestant
Susan S. Flanigan, Esquire Counsel for Petitioners
Mr. & Mrs. Richard J. DiPasquale Petitioners
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotrocco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

Kathleen C. Weidenhammer
Administrative Assistant

LRM

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Baltimore County Government Office of Zoning Administration and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Susan S. Flanigan, Esq.
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201

RE: Item No. 68, Case No. 95-67-A
Petitioner: DiPasquale/Bayview Partnership

Dear Ms. Flanigan:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commission, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 17, 1994 and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements on file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

WCR:jaw

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on Recycled Paper

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 6, 1994
Zoning Administration and Development Management

FROM: Robert W. Bowling, Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for September 6, 1994
Item No. 68

The Developers Engineering Section has reviewed the subject zoning item. If the variance is granted, water and sewer main extensions of approximately 350 feet each would be required to serve this site. Also, the extension of the paved roadway is required for access.

RWB:aw



Maryland Department of Transportation State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

8-26-94

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No: 466 (WCR)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
David Ramsey, Acting Chief
Engineering Access Permits
Division

BS/

My telephone number is

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: ZADM
FROM: DEPRM
SUBJECT: Zoning Advisory Committee
Agenda: 8/29/94

DATE: 8/31/94

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee items:

Item #'s: 63
64
65
66
68
69
70
71
72

LS:sp

LETTY2/DEPRM/TXTSBB

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 08/25/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: SEE BELOW

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time. IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 60, 62, 63, 66, 65, 67, 68, 69, 70, 71 AND 72.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



INTER-OFFICE CORRESPONDENCE
RECOMMENDATION FORM

TO: Director, Office of Planning and Zoning
Attn: Ervin McDaniel
County Courts Bldg, Rm 406
401 Bosley Av
Towson, MD 21204

Permit Number

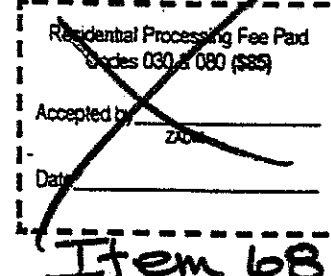
FROM: Arnold Jablon, Director, Zoning Administration and Development Management

RE: Undersized Lots
Pursuant to Section 304.2 (Baltimore County Zoning Regulations) effective June 25, 1992, this office is requesting recommendations and comments from the Office of Planning & Zoning prior to this office's approval of a dwelling permit.

MINIMUM APPLICANT SUPPLIED INFORMATION:
Lot No. 400 E. Pratt St., 5th. 808
Bayview Partnership, Inc., Baltimore, Md. 21202 410-727-8812
Lot Address: 1622 Riderwood - Lutherville Dr., Election District B Council District 4 Square Feet 6,600
Lot Location: NE 1/4 of side / corner of Riderwood Dr. & Morris Ave. (corner of Morris Ave. & Riderwood Dr.)
Lot Owner: Richard Dina DiPasquale Tax Account Number 0808001892
Address: 1837 White Oak Ave. Telephone Number 410-668-1774
Baltimore, Md. 21234

CHECKLIST OF MATERIALS: (to be submitted for design review by the Office of Planning and Zoning)

	YES	NO
1. This Recommendation Form (2 copies)	✓	—
2. Permit Application	✓	—
3. Site Plan Property (2 copies)	✓	—
Topo Map (available in the 2nd C.B.S.) (2 copies) (Please label site clearly)	✓	—
4. Building Elevation Drawings Adjoining Buildings	✓	—
5. Photographs (taken from all photos clearly) Adjoining Buildings	✓	—
Surrounding Neighborhood	✓	—



TO BE FILLED IN BY THE OFFICE OF PLANNING AND ZONING ONLY

RECOMMENDATIONS/COMMENTS:

☐ Approval ☒ Disapproval ☐ Approval conditioned on required modifications of the permit to conform with the following recommendations:

see attached comments

Signed By: Francis Morrey
Director, Office of Planning and Zoning

Date: 9/22/94

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: August 31, 1994

SUBJECT: 1622 and 1624 Riderwood Lutherville Drive

INFORMATION:

Item Number: 68 and 69
Petitioner: DiPasquale Property
Property Size:
Zoning: D.R. 5.5
Requested Action:
Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Based upon a review of the information provided, staff offers the following comments:

It should be noted that none of the accompanying information needed for review of undersized lots was submitted, i.e., building elevation drawings, topo map, photographs of adjacent buildings and the neighborhood. The petition was noted as being accepted with "no review" and it is incomplete.

The applicability of Section 304 is in question since the petitioner owns several contiguous lots, Lots 21, 22, 23 and 24 in the old subdivision of Luther Villa. Section 304 may be applied only "if the owner of the lot does not own sufficient adjoining land to conform to the width and area regulations."

Furthermore, the lots in question, Lots 21-24 of Luther Villa, Plat Book 8, Folio 13, appear to be in a subdivision plat which has lapsed pursuant to Section 26-216 of the Baltimore County Development Regulations. Riderwood Lutherville Drive is an unimproved road along the lots' frontage, and it appears that public utilities may be lacking, (i.e., the substantial construction of public improvements does not exist).

This office recommends the petition be withdrawn or dismissed. It is suggested that the petitioner combine lots seeking either a lot line adjustment and/or minor subdivision approval to establish three building lots that meet the lot width requirement of 55'.

If the petitioner chooses not to pursue this remedy, this office will oppose any request for Variance on these undersized lots, as they would be incompatible with the neighborhood.

Prepared by: Jeffery W. Day
Division Chief: Barry L. Lewis
PK:JLL:lw

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 26, 1994

Ms. Susan S. Flanagan, Esq.
25 S. Charles Street, Suite 1008
Baltimore, Maryland 21201

Item 68

RE: Case No. 95-67-ANO.
DiPasquale/Bayview Partnership Petitioner

Dear Ms. Flanagan:
Enclosed are copies of comments received from OP2 September 01, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Joyce Watson
Joyce Watson

Enclosure

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

November 17, 1994

Susan S. Flanagan, Esquire
Cole & Hammond
25 S. Charles Street, Suite 1008
Baltimore, MD 21201

RE: Petitions for Variance
NW/SRiderwood Lutherville
Drive,
685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624
Riderwood Lutherville Drive)
8th Election District
4th Councilmanic District
Richard J. DiPasquale et ux
Petitioners
95-67-A & 95-68-A

Dear Ms. Flanagan:

Please be advised that an appeal of the above-referenced case was filed in this office on November 7, 1994 by Eric Rockel. All materials relative to the case have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Eileen O. Hennegan at 887-3353.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Director

AJ:ech

c: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Avenue
Baltimore, MD 21234

Susan S. Flanagan, Esquire
Page Two
November 18, 1994

Mr. Leonard H. Lockhart, President, Bayview Partnership, Inc. P.O.
Box 187, Rising Sun, MD 21911

Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, MD 21093
Lutherville Community Association, P.O. Box 6, Lutherville, MD 21094

People's Counsel

APPEAL

Petitions for Variance
NW/8 Riderwood Lutherville Drive, 685' and 735' NE of the c/l of
Morris Avenue (1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux-PETITIONERS
Case No. 95-67-A and 95-68-A

Petitions for Variance
Descriptions of Property
Certificates of Posting
Certificates of Publication
Entry of Appearance of People's Counsel
Zoning Plans Advisory Committee Comments
Petitioners and Protestants Sign-In Sheets
Petitioner's Exhibits: 1 - Plat to accompany Petition for Variance
2A-2L - 12 Photographs with Photo Key
Protestant's Exhibits: 1 - Letter from Lutherville Community
Association dated 9/19/94
2 - Copy of Deed
3 - Copy of Deed
4 - Stream Plan and Profile
5 - Profile-Balto. Co. Dept. of Public
Works-Bureau of Engineering
6 - List of neighbors who object to petitions
7 - Copy of memo from Glen Spamer to John
Alexander, dated August 29, 1994

Deputy Zoning Commissioner's Order dated October 20, 1994 (DENIED)
Notice of Appeal received on November 7, 1994 from Eric Rockel.

Miscellaneous Correspondence:

- 1 - Letter to Kathy Feroli from Arnold Jablon,
dated September 29, 1994 concerning Plat
validity
- 2 - Plat to accompany Petition for Variance
(95-68-A)
- 3 - Copy of 200 scale map

cc: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Ave., 21234
Susan S. Flanigan, Esq., Cole and Hammond, 25 S. Charles St., Suite
1008, 21201
Mr. Leonard Lockhart, Pres., Bayview Partnership, Inc. P.O. Box
187, Rising Sun, MD 21911
Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, 21093
Mr. Richard Matz, Colbert Engineering, Inc., 3723 Old Court Road,
Suite 206, 21208
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Supervisor
Docket Clerk
Arnold Jablon, Director of ZADM

APPEAL

Petitions for Variance
NW/8 Riderwood Lutherville Drive
(1622 and 1624 Riderwood Lutherville Drive)
8th Election District - 4th Councilmanic District
Richard J. DiPasquale, et ux-PETITIONERS
Case No. 95-67-A and 95-68-A

Letter to Arnold Jablon from Susan S. Flanigan dated March 2, 1995
Motion to Dismiss
Letter to Arnold Jablon from Eric Rockel dated November 5, 1994
Letter to Kathy Feroli from Arnold Jablon dated September 29, 1994

cc: Mr. and Mrs. Richard J. DiPasquale, 1837 White Oak Avenue, 21234
Susan S. Flanigan, Esquire, Cole and Hammond, 25 S. Charles
Street, Suite 1008, Baltimore, MD 21201
Mr. Leonard Lockhart, President, Bayview Partnership, Inc., P.O.
Box 187, Rising Sun, MD 21911
Mr. Eric Rockel, 1610 Riderwood Drive, Lutherville, MD 21093
Mr. Richard Matz, Colbert Engineering, Inc., 3723 Old Court Road,
Suite 206, Baltimore, MD 21208
People's Counsel of Baltimore County, M.S. 2010

Request Notification: Patrick Keller, Director, Planning & Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of ZADM

1/27/95 -Notice of Assignment for hearing scheduled for Tuesday,
April 4, 1995 at 10:00 a.m. sent to following:

Mr. Eric Rockel
Susan S. Flanigan, Esquire
Mr. & Mrs. Richard J. DiPasquale
Leonard Lockhart, President
Bayview Partnership, Inc.
Richard Matz
Colbert Engineering, Inc.
People's Counsel for Baltimore County
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /ZADM
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM

2/7/95 -T/C from Susan Flanigan, Esquire RE: filing a Motion to Dismiss prior
to hearing. CER informed the Board would review the Motion if received
prior to hearing.

3/06/95 -Motion to Dismiss filed by S. Flanigan, Esquire (filed 3/03/95 in ZADM;
received by CBA 3/06/95).

3/09/95 -Letter to Eric Rockel, Appellant, forwarding copy of above Motion to
Dismiss; response due within 15 days /no later than Friday, March 24, 1995.
Thereafter, Board will render decision.

3/20/95 -Entry of Appearance filed by J. Carroll Holzer, Esquire on behalf of
Eric Rockel, Appellant /Protestant.

3/24/95 -Answer to Motion to Dismiss filed by J. Carroll Holzer on behalf of
Lutherville Community Assn. and Eric Rockel, Protestants /Appellants.

4/04/95 -Motions hearing held before Board (counsel notified by telephone 4/03/95
that Board would entertain argument on motion to dismiss; no evidence or
testimony on merits to be received on 4/04/95).

-Notice of Deliberation sent to parties; scheduled for Wednesday, April 19,
1995 at 9:30 a.m. (L.R.M.)

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Baltimore, MD 21204

September 29, 1994

(410) 887-3335

Ms. Kathy Feroli
Lutherville Community Association
Post Office Box 6
Lutherville, MD 21093

RE: Plat validity

Dear Ms. Feroli:

This office is in receipt of your request dated September 19, 1994, concerning the validity of
certain lots recorded among the Land Records of Baltimore County on the plats of "Luther Villa"
and "Talbot Manor." I also acknowledge receipt of your check in the amount of \$40.00 for a
written response on this matter.

I am aware that the lots which you reference in your letter are the subject of a variance
hearing before the Zoning Commissioner scheduled for September 28, 1994. Numerous attempts to
contact you prior to the hearing with this information have proven unsuccessful. Although plat
validity is not the subject of the zoning hearing, it is obvious that the status of the record plat will, in
part, determine if these lots are buildable.

Common law vesting in the state of Maryland requires that, in order to obtain a vested right
to be constitutionally protected, one must obtain a permit and proceed under that permit to exercise
it on the land involved so that the neighborhood may be advised that the land is being devoted to
that use. Through the construction of public infrastructure such as water, sewer and roads, and the
issuance of permits throughout the community, the subject plats have, at a minimum, met the test
for common law vesting.

As you have indicated, Section 26-216 (c) of the Baltimore County Code further defines the
parameters for vesting a subdivision. Specifically, the code states: "A subdivision, section or parcel
thereof is hereby defined as developed, and is therefore considered to be vested, if any of the following
has occurred with respect to such subdivision, section or parcel: (1) Building permits have been
issued or substantial construction on required public or private improvement has occurred on such
subdivision, section or parcel pursuant to the requirements of the department of public works."

In consideration of common law vesting and vesting provisions contained in the county
code, it is the opinion of this office that the subject lots and all other infill lots within the recorded
plats of "Luther Villa" and "Talbot Manor" are considered to be vested and thereby protected for
future building provided that they meet current zoning requirements and all other applicable rules
and regulations of Baltimore County. This includes, but is not limited to, the construction of public

Ms. Kathy Feroli
September 29, 1994
Page 2

water and sewer and the provision of adequate public access to individual lots. All of the necessary
requirements will be reviewed by county staff at the time of building permit application.

I trust this information has been helpful. Should you have any additional questions
regarding this matter, please do not hesitate to call Mr. Joseph V. Maranto, Project Manager, at
(410) 887-3335.

Respectfully,

Arnold Jablon
Director

AJ JYM:ggl

November 5, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Cases Numbers
95-67-A & 95-68-A

Dear Mr. Jablon:

On my own behalf and on behalf of the Lutherville Community Association, we would like
to appeal the decisions of the Deputy Zoning Commissioner in the cases referenced above
concerning lots 22 and 23 in Section B of Luther Villa, also known as Talbot Manor. The
applicable filing and posting fees are enclosed.

Specifically, we are only appealing the Deputy Zoning Commissioner's ruling with regard to
the motion made by the Protestants on the lapse in validity of these lots and the fact that
the lots are not vested. We believe the ruling did not address the specific context of the
motion as it relates to Section 26-216 and 217 of the Baltimore County Code. As you are
aware, Ms. Kathy Feroli of the Lutherville Community Association wrote you on this issue
in a letter dated September 19, 1994. When you did not respond until after the hearing for
these cases, the Hearing Officer commented that your determination would not bear on this
issue, but rather he would issue a ruling on the question. Yet in that ruling he references your
opinion on the matter and does not supply any substantive reasoning for his ruling other than
the opinion issued in your letter. Your letter was not part of the testimony in the hearing, and
it should not have been consulted in issuing the ruling. Finally, we believe the ruling failed to
consider the requisite criteria established under the law.

Any future correspondence on this appeal should be sent to this writer at 1610 Riderwood
Drive, Lutherville, Maryland 21093 and to the Lutherville Community Association, P.O. Box
6, Lutherville, Maryland 21094.

Sincerely,

Eric Rockel
Eric Rockel

RECEIVED
NOV 7 1994
ZADM

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Richard J. DiPasquale, et ux -Petitioners
Case No. 95-67-A and Case No. 95-68-A
Deliberation /Motion to Dismiss

DATE : April 19, 1995 @ 9:30 a.m.

BOARD /PANEL : Judson L. Lipowitz (JHL)
Robert O. Schuetz (ROS)
S. Diane Levero (SDL)

SECRETARY : Kathleen C. Weidenhammer
Administrative Assistant

Opening Comments /JHL: We are here on Case No. 95-67-A and Case
No. 95-68-A, 1622 and 1624 Riderwood Lutherville Drive, wherein
Property Owners lost below. The community association appealed to
the Board of Appeals the Deputy Zoning Commissioner's Order of
October 20, 1994. The Property Owners, through counsel, have filed
a Motion to Dismiss appeal. Board heard argument on April 4, 1995
on the Motion to Dismiss, and is prepared now to deliberate on the
Motion to Dismiss appeal. I will go first.

JHL: I reviewed the Deputy Zoning Commissioner's Findings of Fact
and Conclusions of Law, and particularly I reviewed his Order.
The essence of the Order is that the prerequisites required to
grant the two variances had not been met, and therefore should
be and were denied. The Opinion covered many different
topics. It did cover a topic regarding the vesting of the
lots and validity of the subdivision. Those issues had been
raised at the hearing by the community association through a
Motion to Dismiss that was argued before the Deputy Zoning
Commissioner. It is my opinion that the only issue before
this Board is the Order denying the variances, and since the
Property Owners did not file an appeal, and in my opinion they
were the only potential party aggrieved by the Deputy Zoning
Commissioner's decision, I believe that the Motion to Dismiss
should be granted, period. Mr. Holzer suggests that we deny
the Motion to Dismiss but that we allow the parties to brief
the issue regarding vesting and validity of subdivision, and
that we then somehow issue an order or ruling deciding that
issue. Mr. Holzer was concerned about judicial economy;
concerned that the language of Order, of the Deputy Zoning
Commissioner's Opinion, would somehow hurt the community at a
later date. This Board has always tried to be practical and
has always tried to act with foresight and mindful of judicial
economy. However, from a legal standpoint, the Motion to
Dismiss should be granted without any qualifications.

Deliberation /Richard J. DiPasquale, et ux
Case No. 95-67-A and Case No. 95-68-A /Motion to Dismiss

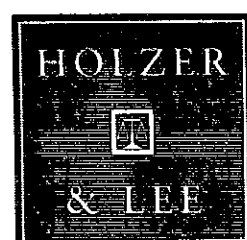
SDL: The issue of the validity of the lots and subdivision which
were subject of the variance was not question before the
Deputy Zoning Commissioner; his statement on page 4 that he
does not believe the subdivision has lapsed is dicta; a
statement of opinion or legal point not essential to the case;
as dicta, it is not binding or appealable; would grant Motion
to Dismiss.

ROS: There is really nothing left to be added; the issue of this
case is the Order of the Deputy Zoning Commissioner; the
Property Owner lost below; he is the aggrieved party. I don't
see where the rights of the association are not preserved.
Therefore, I also would grant the Motion to Dismiss.

Closing Comment /JHL: The Board will issue a written ruling
granting the Motion to Dismiss. Any appeal from that Ruling will
be filed within thirty days from that Order and not from today's
date.

Respectfully submitted,

Kathleen C. Weidenhammer
Administrative Assistant



LAW OFFICES
J. CARROLL HOLZER, ESQ.
TOWSON, MD 21204
410-528-4444
FAX 410-528-4444

CHAS. S. KAY, ESQ.
215 E. NORTH ROAD
TOWSON, MD 21204
410-528-4444
FAX 410-528-4444

March 16, 1995

Chairman William Hackett
County Board of Appeals
Old Courthouse
Towson, Maryland 21204

Re.: DiPasquale
Case Nos. 9567A and 9568A

Dear Mr. Hackett:

Please be advised that I have just been retained by the Greater Timonium Community Council, Inc., to represent Mr. Eric Rockel in the appeal of the Lutherville Community Association in the above captioned case. He has also just provided me with a copy of the Motion to Dismiss which was previously filed by Bayview Partnership, Inc., to be answered by next Friday, March 24, 1995.

I have further been advised that the hearing has been scheduled for April 4, 1995, at 10:00 a.m. I am clear on that date until 1:00 p.m., when I have a District Court case in Towson that has already been postponed three times and must be tried. Thank you very much for adding to the file as Counsel of Record.

Very truly yours,

J. Carroll Holzer

cc: Susan S. Flannagan

letters\hackett4.1tr

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

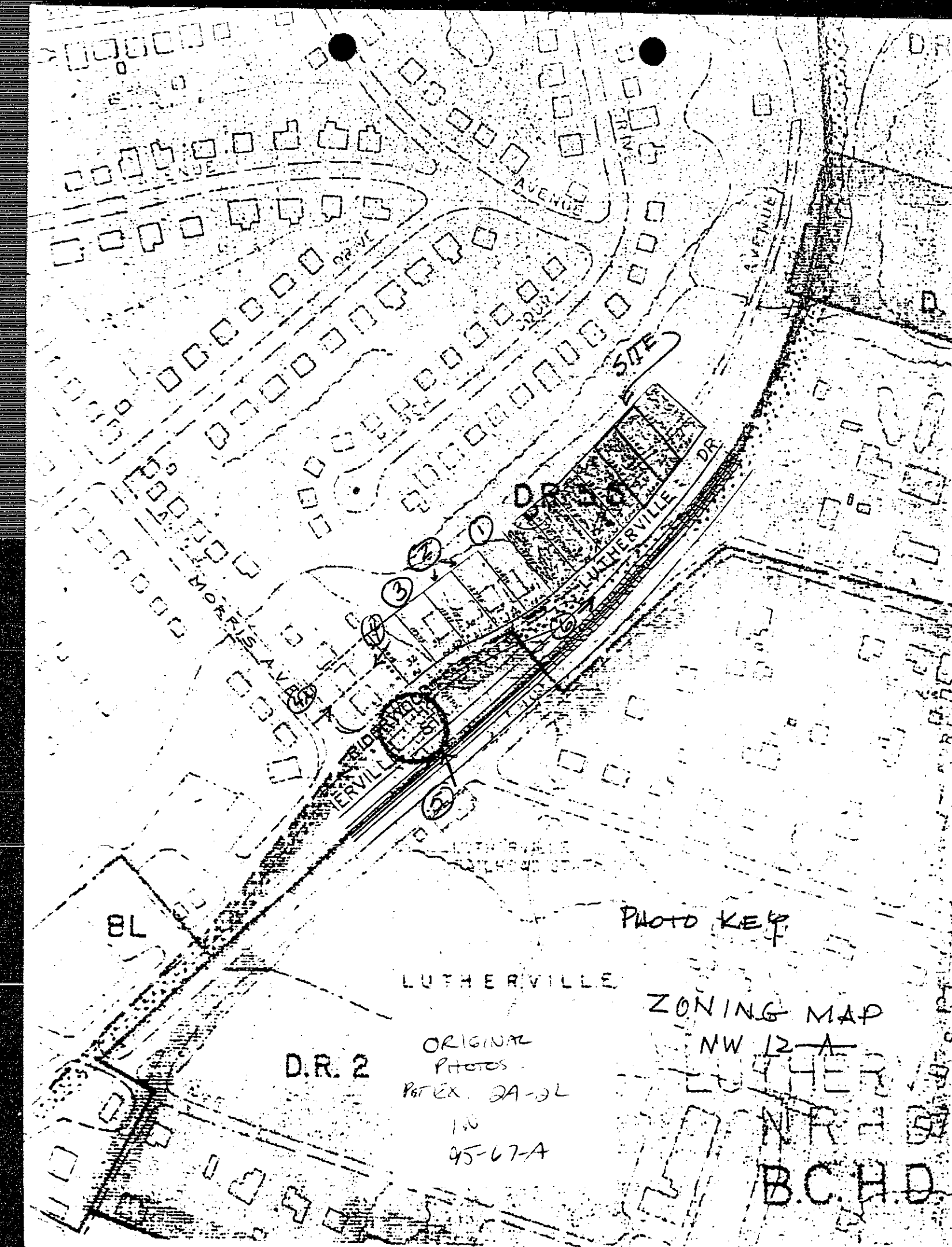
NAME	ADDRESS
Eric Rockel	1610 Ridewood Dr, Lutherville Md. 21093
James C. Kahan	1100 Tuckahoe Ct Lutherville, Md 21093
David H. Haring	1633 Tuckahoe Ct. Lutherville, Md 21093
John C. Haring	1615 Tuckahoe Ct Lutherville, Md 21093
John H. G. G. G. G.	1615 Tuckahoe Ct Lutherville, Md 21093
Anthony J. H. H. H.	1635 Tuckahoe Ct Lutherville, Md 21093
George W. DeLoach	1701 Greenway Dr Lutherville, Md 21093
Richard A. Winchell	1625 Tuckahoe Ct Lutherville, Md 21093
P. Barrett Rudd	1601 Ridewood-Lutherville Dr Lutherville, Md 21093
Robert Conza	1615 Tuckahoe Ct Lutherville, Md 21093

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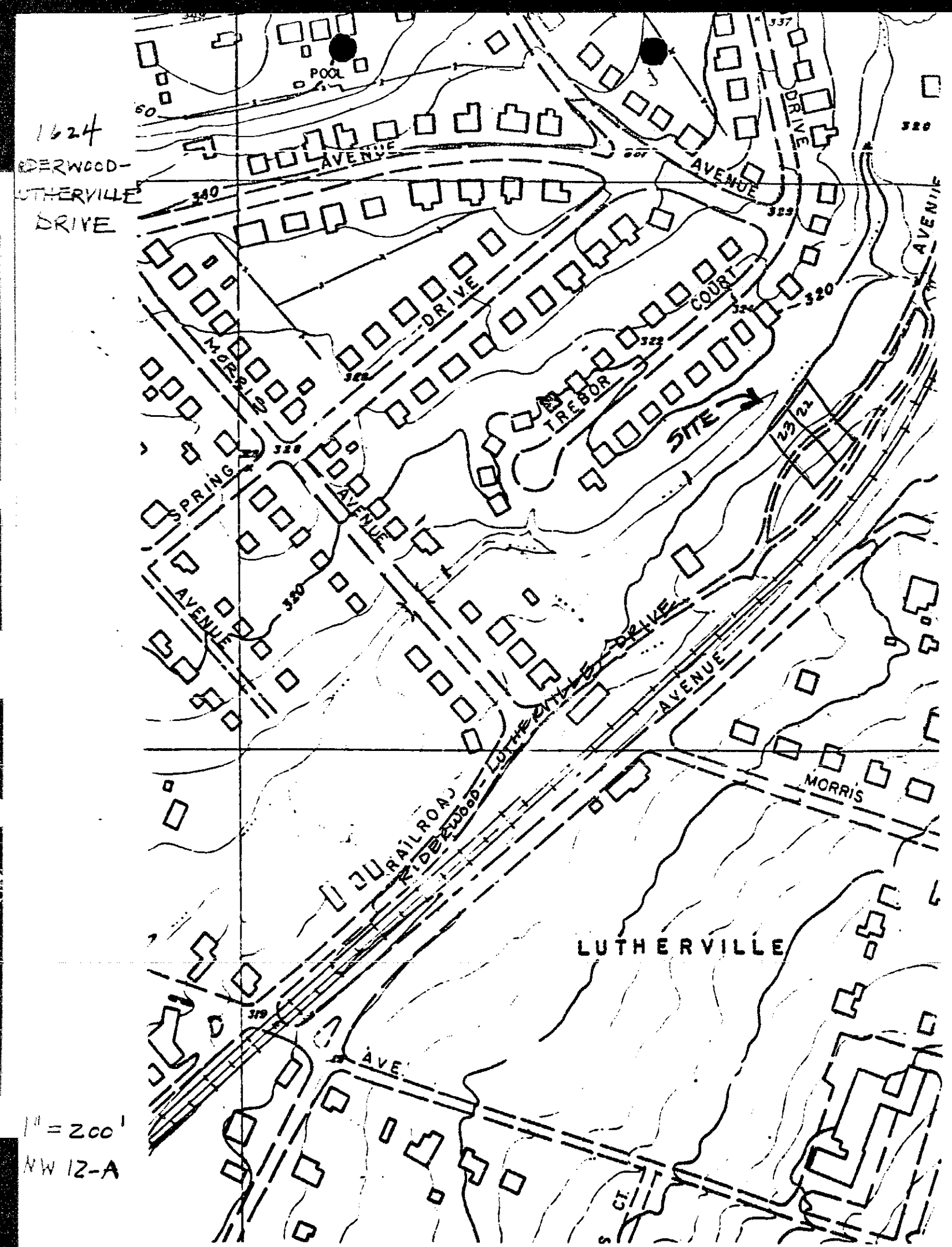
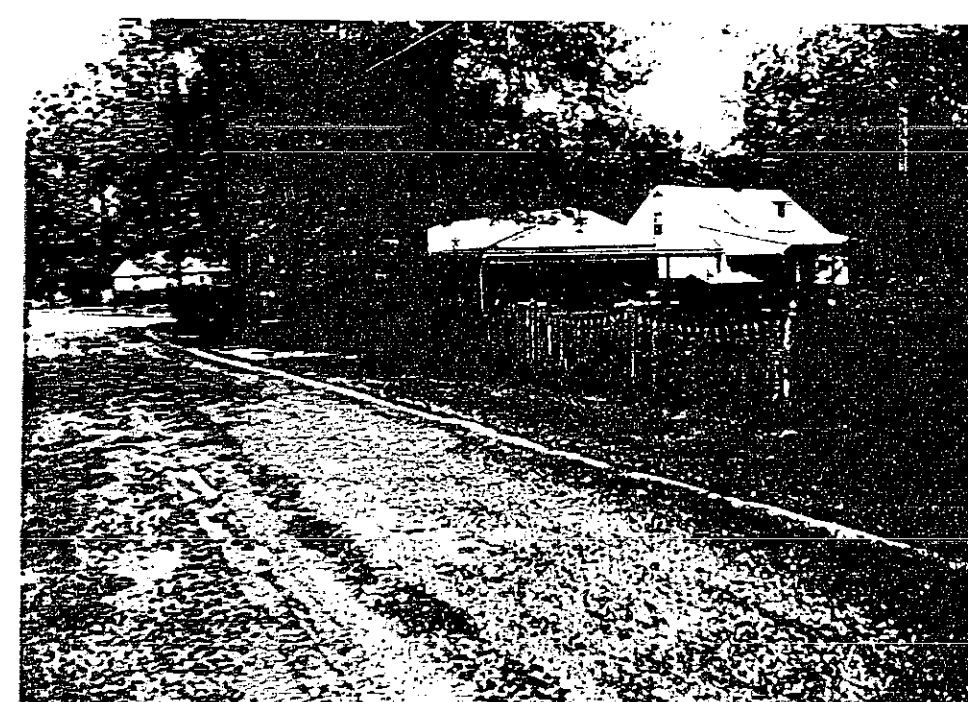
PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Richard E. Matz	19 MARIE Woods CT. 21203
Susan S. Flannagan	8336 Carrbridge Circle 21204
Richard J. DiPasquale	1837 White Oak Ave 21204
Leonard H. Lockman	P.O. Box 127, Rising Sun, Mo. 63111

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on Recycled Paper



1622-1624
RIDEROOD-
LUTHERVILLE DR



Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 1622 RIDEROOD LUTHERVILLE DRIVE
Subdivision name: COUNTRY CLUB PARK (FORMERLY LUTHER VILLA)
Plat book: 8, folio 12, lot 23, section 8

OWNER: RICHARD J. DI PASQUALE

OWNER: RICHARD J. DI PASQUALE

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